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MISCELLANEOUS PUBLIC LANDS MEASURES

HEARING BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 1767

To reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes

S. 2343

To amend the Wild and Scenic Rivers Act by designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System

H.R. 2809

To provide for the transfer of certain lands to the State of California, and for other purposes

MAY 10, 1990



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CONTENTS

S. 1767	Page 3
S. 2343	6
H.R. 2809	11

STATEMENTS

Bumpers, Hon. Dale, U.S. Senator from Arkansas	1
Burns, Hon. Conrad, U.S. Senator from Montana	23
Coyle, Kevin J., acting president, American Rivers, Inc., accompanied by Debbie Sease	90
Flaherty, Diane Bugas, Davis, CA	104
McClure, Hon. James A., U.S. Senator from Idaho	22
Morehead, John M., Associate Director, Operations, National Park Service, Department of the Interior, accompanied by Dr. John Dennis	63
Overbay, James C., Deputy Chief, Forest Service, Department of Agriculture, accompanied by Dr. Billy Johnson	79
Simpson, Hon. Alan K., U.S. Senator from Wyoming	52
Story, John, president and general manager, Parker Land & Cattle Co., Inc.	74
Sullivan, Hon. Mike, Governor, State of Wyoming	50
Thomas, Hon. Craig, U.S. Representative from Wyoming	45
Wallop, Hon. Malcolm, U.S. Senator from Wyoming	17
Winsor, John B., Cody, WY	98

APPENDIXES

APPENDIX I

Responses to additional questions	113
---	-----

APPENDIX II

Additional material submitted for the record	125
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MISCELLANEOUS PUBLIC LANDS MEASURES

THURSDAY, MAY 10, 1990

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room SD-366, Hon. Dale Bumpers, presiding.

OPENING STATEMENT OF HON. DALE BUMPERS, U.S. SENATOR FROM ARKANSAS

Senator BUMPERS. The purpose of today's hearing is to receive testimony on three measures currently pending before the Subcommittee. The measures: are S. 1767, which would reimburse the State of Montana and individual ranchers for expenses incurred in the testing of cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison; S. 2343, which would amend the Wild and Scenic Rivers Act by designating a 20.5 mile segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic River System and reserve a quantity of water necessary to protect certain values of such segment; and H.R. 2809, which would convey by exchange the Calaveras Big Trees National Forest to the State of California for inclusion within the Calaveras Big Trees State Park.

I would like to take just a moment to comment on S. 2343, which would add a segment of the Clarks Fork River to the Wild and Scenic River System. I have not visited the Clarks Fork, but I understand it is a magnificent and quite worthy of designation as a Wild and Scenic River. While one would therefore expect that environmentalists would be supporting this bill, both local and national environmentalists have contacted me regarding their opposition, primarily because of the water rights provisions which are included. They are deeply disturbed by the potential precedent this bill would establish in the area of Federal reserved water rights.

As most of you know, the issue of Federal reserved water rights has been a source of great interest and great controversy in recent years, most notably the reservation by the Federal Government of certain water rights associated with wilderness designations has been particularly contentious. To a large extent, Federal reserved water rights has not been a major issue in the designation of Wild and Scenic Rivers. Because this bill takes a very different approach to the reservation of Federal water rights than have most other

Wild and Scenic River designations, it will unquestionably be contentious.

Traditionally, the Senate has given great weight to the wishes of the affected congressional delegation when it comes to Federal land management issues in a particular State. For the most part, this is a policy I support. However, as the Chairman of this Subcommittee, I am also concerned about establishing precedents in the area of Federal reserved water rights for wild and scenic rivers. I have not taken a position on this particular measure, because I have not had the opportunity to thoroughly consider it. I will be particularly interested, therefore, in hearing witnesses today in hopes of learning more about the provisions in the bill, particularly those that relate to reserved water.

At this point, I will place copies of the bills in the record and the hearing will remain open for two weeks to receive additional testimony.

[The texts of S. 1767, S. 2343, and H.R. 2809 follows:]

101ST CONGRESS
1ST SESSION

S. 1767

To reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 18 (legislative day, SEPTEMBER 18), 1989

Mr. BURNS (for himself, Mr. BAUCUS, and Mr. SYMMS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. FINDINGS.

4 Congress finds that—

5 (1) Yellowstone National Park has no effective
6 means to keep free roaming elk and bison from cross-
7 ing into Montana private lands in search of food and

1 shelter, which is a defacto expansion of the Federal
2 holdings;

3 (2) 50 percent of the Yellowstone bison harvested
4 outside Yellowstone National Park in the winter of
5 1989 were tested positive for the brucellosis
6 organism;

7 (3) Yellowstone National Park officials believe
8 that attempts to control brucellosis in elk and bison
9 herds would violate the responsibilities to preserve and
10 protect natural processes;

11 (4) Yellowstone National Park officials have de-
12 termined that the National Park Service has no legal
13 jurisdiction over, or liability for, animals that are out-
14 side the boundaries of Yellowstone National Park;

15 (5) brucellosis is a very infectious disease that
16 causes cows to abort calves;

17 (6) Montana is a brucellosis-free state with a
18 cattle industry that represents millions of dollars to the
19 economy; and

20 (7) Montana must continue to test cattle for bru-
21 cellosis contamination and to destroy animals infected
22 with brucellosis in order to ensure that herds are kept
23 disease free.

1 SEC. 2. REIMBURSEMENT FOR COSTS.

2 (a) IN GENERAL.—The Secretary of Interior shall reim-
3 burse Montana, the individual cattle-owners in Montana, or
4 both for the costs of testing cattle for brucellosis if there is a
5 demonstrated risk of such cattle becoming infected with bru-
6 cellosis due to exposure to national park herds.

7 (b) VALIDITY OF CLAIMS.—A claimant for reimburse-
8 ment under subsection (a) shall prove the validity of such
9 claim by presenting bills or other explanations of expenses to
10 the Secretary of Interior.

11 SEC. 3. AUTHORIZATION.

12 There are authorized to be appropriated to carry out
13 this Act \$50,000 for fiscal year 1990, \$50,000 for fiscal year
14 1991, and \$50,000 for fiscal year 1992.

101ST CONGRESS
2D SESSION

S. 2343

To amend the Wild and Scenic Rivers Act by designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

MARCH 27 (legislative day, JANUARY 23), 1990

Mr. WALLOP (for himself and Mr. SIMPSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Wild and Scenic Rivers Act by designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Clarks Fork Wild and
5 Scenic River Designation Act of 1990".

1 SEC. 2. DESIGNATION OF RIVER.

2 Section 3(a) of the Wild and Scenic Rivers Act (16
3 U.S.C. 1274(a)) is amended by adding at the end the
4 following:

5 “() CLARKS FORK, WYOMING.—(A) The twenty and
6 five-tenths-mile segment from the west boundary of section
7 3, township 56 north, range 106 west at the Crandall Creek
8 Bridge downstream to the north boundary of section 13,
9 township 56 north, range 104 west at Clarks Fork Canyon;
10 to be administered by the Secretary of Agriculture as a wild
11 river. Notwithstanding subsection (b), the boundary of the
12 segment shall include all land within four hundred and forty
13 yards from the ordinary high water mark on both sides of the
14 river. No land or interest in land may be acquired with re-
15 spect to the segment without the consent of the owner there-
16 of. For the purposes of carrying out this Act with respect to
17 the river designated by this paragraph, there is authorized to
18 be appropriated \$500,000 for development and \$500,000 for
19 the acquisition of land and interests therein.

20 “(B)(i) Except as specifically provided in this subpara-
21 graph, no provision of this Act shall constitute or be con-
22 strued to constitute either an express or implied reservation
23 of water, or rights thereto, for any purpose with respect to
24 the river segment designated by this paragraph.

25 “(ii) Congress hereby expressly reserves from appurte-
26 nant unappropriated water in the river segment designated

1 by this paragraph a quantity of water necessary to protect
2 the scenic, recreational, and historic values of such segment.
3 Such quantity shall be jointly determined by the Secretary
4 and the State of Wyoming, with a priority date of the date of
5 enactment of this paragraph. Notwithstanding subparagraph
6 (A), the water shall be administered by the State of
7 Wyoming.

8 “(iii) Within three years after the date of enactment of
9 this paragraph, the Secretary shall conclude an agreement
10 with the Governor of Wyoming which specified the quantity
11 of water reserved pursuant to clause (ii). The Secretary shall
12 notify the Committee on Energy and Natural Resources of
13 the Senate and the Committee on Interior and Insular Affairs
14 of the House of Representatives of any action taken under
15 this clause.

16 “(iv) Pending conclusion of such segment, the Congress
17 hereby expressly reserves from appurtenant unappropriated
18 water a right to a flow requirement with a priority date as of
19 the date of enactment of this paragraph. Notwithstanding
20 subparagraph (A), the water shall be administered by the
21 State of Wyoming. Subject to valid existing rights and future
22 ordinary and usual domestic and stock watering used (not to
23 exceed twenty-five gallons per minute for each domestic use
24 and not to exceed twenty acre-feet per year for each stock
25 watering use), such right is quantified as 50 percent of the

1 monthly natural flow measured in such segment at the north
2 boundary of section 13, township 56 north, range 104 west.
3 Upon the effective date of the agreement concluded pursuant
4 to clause (iii), the water right reserved under this clause shall
5 expire.

6 “(v) Designation of the segment as a wild river by this
7 paragraph shall not interfere with the exercise of, and State
8 administration over, existing water rights.

9 “(C) Notwithstanding section 7, designation of the seg-
10 ment as a wild river by this paragraph shall not be utilized in
11 any Federal proceeding, whether concerning a license,
12 permit, right-of-way, or any other Federal action, as a reason
13 or basis to prohibit the development or operation of any
14 water impoundment, diversion facility, or hydroelectric power
15 and transmission facility located entirely downstream from
16 the segment of the river designated by this paragraph. Con-
17 gress finds that development of water impoundments, diver-
18 sion facilities, and hydroelectric power and transmission fa-
19 cilities located entirely downstream from the segment of the
20 river is not incompatible with its designation as a wild river.

21 “(D) The comprehensive management plan developed
22 under subsection (d) for the segment designated by this para-
23 graph shall provide for all such measures as may be neces-
24 sary in the control of fire, insects, and diseases to fully pro-

- 1 tect the values for which the segment is designated as a wild
- 2 river.".

101ST CONGRESS
1ST SESSION

H. R. 2809

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15 (legislative day, NOVEMBER 6), 1989

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To provide for the transfer of certain lands to the State of
California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSE.**

4 (a) **FINDINGS.**—The Congress finds and declares that—

5 (1) in order to protect certain outstanding exam-
6 ples of ponderosa pine, sugar pine, and giant sequoia
7 trees located in the North and South Calaveras
8 Groves, on the western slope of the Sierra Nevada
9 Mountains, the State of California has established
10 Calaveras Big Trees State Park; and

1 (2) for similar purposes, the United States has
2 designated certain adjacent Federal lands, amounting
3 to about 379 acres, as the Calaveras Big Trees
4 National Forest; but

5 (3) this National Forest (managed as part of the
6 Stanislaus National Forest) is the smallest National
7 Forest in the United States and could be more appro-
8 priately and efficiently managed as part of the Cala-
9 veras Big Trees State Park.

10 (b) PURPOSE.—The purpose of this Act is to improve
11 the management of the lands located in the Calaveras Big
12 Trees National Forest, and the protection of certain examples
13 of ponderosa pine, sugar pine, and giant sequoia trees, by
14 unifying the management of the lands in such National
15 Forest and in the California Calaveras Big Trees State Park.

16 SEC. 2. LAND TRANSFER.

17 (a) TRANSFER.—Promptly following the enactment of
18 this Act, the Secretary of Agriculture (hereinafter in this Act
19 referred to as the "Secretary") is authorized and directed to
20 transfer, subject to the provisions of this Act, to the State of
21 California, subject to valid existing rights, for inclusion
22 within the Calaveras Big Trees State Park in Tuolumne
23 County, California, all right, title, and interest of the United
24 States in and to lands and interests therein within the Cala-
25 veras Big Trees National Forest, as generally depicted on the

1 map numbered 20435 and dated June 5, 1989, prepared by
2 the California Department of Parks and Recreation.

3 (b) MAP AND DESCRIPTION.—As soon as practicable
4 after the enactment of this Act, the Secretary shall submit a
5 map and legal description of the lands referred to in subsec-
6 tion (a) to the Committee on Interior and Insular Affairs of
7 the United States House of Representatives, and the Com-
8 mittee on Agriculture and the Committee on Energy and
9 Natural Resources of the Senate. Such map and legal de-
10 scription shall have the same force and effect as if included in
11 this Act, except that any clerical or typographical errors in
12 such map or legal description may be corrected. The Secre-
13 tary shall place such map and legal description on file, and
14 make them available for public inspection, in the Office of the
15 Chief of the United States Forest Service.

16 (c) CONDITIONS OF TRANSFER.—Transfer of the lands
17 and interests described in subsection (a) of this section shall
18 be subject to the following conditions—

19 (1) The transfer shall not take place unless no
20 later than two years after the date of enactment of this
21 Act, there is concluded an agreement between the
22 State of California and the Secretary of Agriculture (on
23 behalf of the United States) whereby the State agrees
24 to transfer to the United States, in exchange for such
25 lands or portions thereof and under terms and condi-

1 tions which the Secretary finds to be acceptable, lands
2 in California and other consideration of approximately
3 equal value that the Secretary finds suitable for addi-
4 tion to and management as part of one or more units
5 of the National Forest System;

6 (2) No harvest of timber (except as may be neces-
7 sary for purposes of control of fire, insects, or disease)
8 and no mineral, oil or gas geothermal exploration or
9 development shall be permitted on such lands;

10 (3) Any action by the State of California to trans-
11 fer any portion of such lands or interests to any entity
12 other than the United States shall be void ab initio and
13 shall result in the reversion to the United States of all
14 right, title, and interest in such lands;

15 (4) Any action by the State of California to permit
16 use of any portion of such lands for any purpose pro-
17 hibited by this subsection or any purpose incompatible
18 with the continued ability of such lands to support pon-
19 derosa pine, sugar pine, or giant sequoia trees, shall
20 result in the reversion of all right, title and interest in
21 such lands to the United States;

22 (5) The Secretary of Agriculture, acting through
23 the Forest Service, shall be afforded by appropriate of-
24 ficials of the State of California reasonable opportuni-

1 ties to collect seed from trees located on such lands for
2 scientific or silvicultural purposes;

3 (6) The Secretary of Agriculture, upon prior noti-
4 fication to the State of California, shall be entitled at
5 any time to enter upon such lands for the purpose of
6 monitoring the management of such lands and the com-
7 pliance of the State of California with the provisions of
8 this subsection; and

9 (7) The transfer shall be subject to valid existing
10 rights and the following reservations or exceptions:

11 (A) Existing ditches and canals as authorized
12 by the Act of August 30, 1890 (43 U.S.C. 945);
13 and

14 (B) Any existing rights-of-way to provide the
15 United States and its assigns access to federally
16 owned lands.

17 (d) ENFORCEMENT.—Upon the request of the Secretary
18 of Agriculture, the Attorney General shall bring any action
19 or take any other steps necessary to enforce the provisions of
20 subsection (c) of this section.

21 (e) TIMING, VALUE, AND STATUS.—(1) Transfer of
22 lands to the State of California under this Act shall occur at
23 the same time as transfer of lands to the United States under
24 the agreement described in paragraph (1) of subsection (c).
25 The restrictions and conditions specified in paragraphs (2),

1 (3), (4), (5), (6), and (7) of subsection (c) shall be included in
2 the instruments of transfer of lands to the State of California.

3 (2) Effective upon the transfer to the State of California
4 of lands described in subsection (a) of this section, the Nation-
5 al Forest status of such lands shall terminate. Any such lands
6 not transferred to the State of California shall thereupon be
7 incorporated into the Stanislaus National Forest and man-
8 aged accordingly.

9 (3) Any lands transferred to the United States pursuant
10 to this Act shall be deemed national forest lands and man-
11 aged accordingly. If any such lands are outside existing
12 boundaries of one or more National Forests, the Secretary
13 may modify such boundaries to encompass such lands.

14 (4) Values of the respective lands exchanged between
15 the United States and the State of California pursuant to this
16 Act shall be of "approximately equal value" as that term is
17 defined by regulations implementing the Act of January 12,
18 1983 known as the Small Tracts Act (16 U.S.C. 521c-521i).

19 (5) Any of the lands described in subsection (a) of this
20 section which may revert to ownership of the United States
21 shall be added to and incorporated within the Stanislaus
22 National Forest and managed accordingly.

Passed the House of Representatives November 13,
1989.

Attest:

DONNALD K. ANDERSON,

Clerk.

Senator BUMPERS. Let me also add that before we hear the first witness I want to remind the representatives from the Interior Department that the rules of this Committee are that 50 copies of their testimony will be available to the Committee staff 24 hours in advance of the hearing.

The Department witnesses who were invited to appear at this hearing on April 27, as of 1:15 this afternoon copies of the Department's statement had not been received by the Subcommittee. I know that sometimes circumstances will require that testimony be delivered late, and I do not want to belabor the point, but I do not want this to become standard practice, either.

Senator Wallop.

STATEMENT OF HON. MALCOLM WALLOP, U.S. SENATOR FROM
WYOMING

Senator WALLOP. Thank you. If I may add my support to what you just said, I think you should belabor the point.

Senator BUMPERS. It is the rule of the Senate, not a rule of this Committee, that testimony be delivered at least 24 hours in advance. I am sorry to interrupt you.

Senator WALLOP. Senator Bumpers, thanks very much for scheduling this hearing so promptly. There are two bills of great importance to the State of Wyoming which we will discuss today: S. 2343, the Clarks Fork Wild and Scenic River Designation Act of 1990, which you mentioned, and S. 1767, with its amendment to reimburse individuals in Wyoming and Montana for economic loss and expenses incurred to test cattle for brucellosis carried outside Yellowstone National Park by elk and bison.

I would like to welcome the considerable witnesses that made the long trip from Wyoming to provide information to the Subcommittee, and not the least of whom, Governor Sullivan, our Governor, who we welcome today as a witness—and Governor, I appreciate the fact that you took time to be here with us today.

As every other water controversy in the State seems to be near boiling point, it is nice to be able to discuss a bill we can simply be proud of—Clarks Fork Wild and Scenic River Designation Act of 1990. You can count on the support of the Wyoming delegation in your efforts to ensure that our State continues to have the ability to determine its own water future.

I would welcome also Diane Flaherty and her attorney, Rebecca Thompson, as owners of the only private land in the Wild and Scenic River area. Your fears of government encroachment are understandable. As I said before, your ranch is part of the reason why the river was found to be eligible for Wild and Scenic River status in the first place, because of the care and stewardship that your families have given it over the course of time and I will work to ensure that your property rights are not infringed upon in our efforts to give the Clarks Fork this Federal designation.

John Winsor lives part of the year in the Clarks Fork area, and I look forward to your testimony on behalf of the Yellowstone Clarks Fork Coalition regarding this Wild and Scenic River designation.

Finally, as a fellow rancher, I would welcome John Story, whose testimony today will show this committee how shortcomings in cur-

rent park policy with regards to brucellosis can severely affect American ranches. These issues are important to our State and to these witnesses, Mr. Chairman. In order to expedite matters, I would like to drop a more complete statement into the record.

However, there is a point I would like to clarify in regard to the Clarks Fork Wild and Scenic River designation. We in the delegation worked very closely with our Governor on this bill, and I will let him provide the committee with the background information. However, I requested the inclusion of an interim minimum flow quantification to apply, pending conclusion of the joint States Forest Service flow quantification effort.

This 50 percent quantification was not designed to affect the studies of the agencies in developing their quantification, and I will ensure that the legislative history reflects that. The provision was designed to answer a simple question: what if the State and the Forest Service cannot come to an agreement on a specified flow?

The Federal judges have shown themselves only too willing to infer congressional intent when the Congress is silent. Unelected Federal court judges should not be invited to decide Wyoming's water future. That provision will circumvent any judicial finding of an implied reservation.

The State asked that the specific flow be set at 50 percent. I am well aware that the Forest Service would prefer an 80 or 90 percent figure, and that many people are critical of the provision and of the fact that the delegation chose to use the Governor's recommendation of 50 percent of the flow.

I am also aware that many national organizations feel the State should not be allowed to participate in the establishment of the flow quantification. The State of Wyoming, which owns the water now, and upon whose recommendation the river designation has been introduced and which has the most knowledge of and the greatest interest in protecting the river for future designations, made the commitment to include the Clarks Fork in the national Wild and Scenic River System based on certain conditions. To argue that Wyoming should now have no voice in the matter, or that the Wyoming delegation should place the recommendations of the Forest Service above those of the State, is clearly contrary to the best interests of Wyoming.

I care, and I care deeply, about the long-term protection of the Clarks Fork. So, too, does Governor Sullivan. It is upon his recommendation that the delegation finally came to the point of introducing this. So, too, do the people of Wyoming, who ask that they give the Clarks Fork the special recognition that it deserves.

This bill does that in a balanced and responsible manner, taking into account the best interests of the State. It is a good bill. It is a strong environmental statement, and a very nice first for the State of Wyoming in its centennial year, and it will not, Mr. Chairman, destroy the Wild and Scenic Rivers Act. It will, in fact, provide the river with the designation and the protection which it deserves.

The Governor and the people of the State of Wyoming stand ready and prepared to provide earnest and appropriate negotiations to achieve what both the Forest Service and the State want, and that is the adequate protection of this river as Wild and Scenic. I have no doubt that they will achieve that. I just have

doubts as to whether the courts would do it as well as the State and the Forest Service would.

Thank you, Mr. Chairman.

[The prepared statement of Senator Wallop follows:]

Statement of Senator Malcolm Wallop

May 10, 1990

United States Senate

Committee on Energy and Natural Resources

Subcommittee on Public Lands, National Parks, and Forests

Brucellosis in Yellowstone National Park

I would like to thank the Chairman of this subcommittee, Senator Bumpers for his quick action in granting a hearing on this legislation. I believe this hearing will prove to be the catalyst for changing federal policy dealing with Brucellosis in and around the Yellowstone National Park.

This legislation is important for many reasons. On the surface, S. 1767 addresses a real problem faced by the ranching community -- I would like to welcome Mr. John Storey of Dubois, Wyoming who will testify later and describe the problem from his perspective. Yet, of equal or even greater importance is that we bring the issue of Brucellosis out of the shadows, stop dodging it at the Federal level, and find a solution to the continued existence of this menacing disease. I believe that the Park Service, Bureau of Land Management, Forest Service, and Fish and Wildlife Service must, in coordination with Wyoming and the two other directly effected states, come to grips with the fact that Brucellosis does exist in Yellowstone National Park wildlife.

This Bill places the onus of responsibility on the shoulders of the federal agencies who have jurisdiction over the Yellowstone National Park's territory (Park Service, BLM, Forest Service, and Fish and Wildlife). It is almost ironic that snuggled in between three rural, ranching states, Yellowstone National Park would be the last existing strong hold for the brucella bacteria in the Northwestern United States. We can no longer sit idly by and tolerate the proliferation of this bacteria in the wildlife populations of the park which directly and indirectly threaten thousands of ranchers and the "Brucellosis Free" status we have all worked so hard and paid so much to acquire. It is time to accept the existence of this organism in the Yellowstone ecosystem and initiate an aggressive, well planned attack against it -- it must be eradicated.

Ranchers across this country and around the world have been trying for years to eradicate this menacing bacteria. The U.S. has long known of its existence and began an eradication program some 56

years ago. To date, we have spent approximately \$1.3 billion attempting to rid this disease from our shores -- the U.S. currently has 27 states designated as brucellosis free. Sixteen countries have also been assigned this status. Yet, current park policy has proven to be inconsistent with our historical efforts to eradicate this organism and in fact sustains it.

Mr. Chairman, brucellosis and the threat it poses are real. This bacteria alone could devastate the economy of many rural states. Wyoming for example -- is a state of less than half a million people. Yet, 82% of the State's farm and ranch cash receipts come from livestock. We have roughly 1.3 million head of cattle with a cash value of over \$735 million. I don't believe I have to tell anyone the devastation that would be caused if many other ranchers had to follow in Mr. John Storey's foot steps.

This legislation is a temporary fix for a problem which must be addressed by substantive talks on the inconsistencies park policy has with our nation's long standing eradication effort.

I look forward to hearing today's testimony and asking some tough questions of our witnesses.

Senator BUMPERS. Senator Burns.

Senator BURNS. I think Senator McClure has some things to do, if he would like to make a statement.

Senator BUMPERS. Fine. Senator McClure.

STATEMENT OF HON. JAMES A. McCLURE, U.S. SENATOR FROM IDAHO

Senator McCLURE. I would like to make a statement before the witnesses appear, so that if they would like to comment on the questions I have in my mind, they have the opportunity to do so. I do have another commitment at 2:30 which will take me away for a while. I hope to return to the hearing before it concludes, between that and another commitment I have an hour later.

But I have two or three things that appear from the language of the Wild and Scenic River designation in S. 2343 which I think need to be resolved very clearly for the record, and I want the sponsors of the bill to be able to comment upon these provisions as well as the other witnesses who will appear and testify.

One of the problems you have is that we in the West nearly always operate under an appropriation doctrine for water, and it appears to me that this bill attempts to attach to the waters in the Clarks Fork a riparian doctrine rather than an appropriation doctrine. I realize that comes directly from court decisions, which is another way of saying that judges can get confused, too. But I think because it has that dichotomy of trying to apply within an appropriations State a riparian doctrine, it needs to be done as carefully as we know how to do it.

Second, I read the bill as being a very clear preemption of State law, with limited preemption. If there is any disagreement on that, I would like the witnesses who disagree to say so. But it appears to me that there is within the bill, in more than one case, a very clear intention to preempt the application of State law within the limits that are specified in the bill. If that is not true, I want to know it.

The joint finding which is called for with respect to the consultation between the State and the Federal agency is also a preemption of State law, and that joint finding is to be done pursuant to this statute and not pursuant to State law, as I read it. The flow requirement again is a riparian doctrine, not an appropriation doctrine, and somehow you have to convert flow doctrine—riparian doctrine into quantity of water so that it fits well with the appropriation doctrine under State law. If you do not manage to convert that flow requirement into a quantity designation there will be unending uncertainty as to exactly what is meant by it.

Finally, in Section C that appears on page 4 of the bill it refers to "any Federal proceeding." I do not mean to raise any ghosts or hobgoblins here, but I wonder why that would not also apply to any State proceeding? I am not sure what a Federal proceeding is, whether that is a proceeding in the Federal Court, in a Federal Administrative agency, or pursuant to a Federal statute, because any proceeding is going to refer to this statute, because this statute is itself a preemption of the State law.

If all of that is true, then it seems to me that we need to be very clear in Subsection C as to whether the provisions of this act could

be raised in State proceedings, to apply the Federal statute set forth in this statute in a State proceeding.

Again, I want to reiterate what I have said many times before. It seems to me that in the allocation of resources, Congress has a responsibility as well as a capacity. The capacity to do something, but a responsibility to do it correctly, and I hope that in this instance, if the people who hope for this legislation, those people who would have it passed exactly as it is, and those who would change it slightly have a duty to come forward and tell us exactly what it is they expect this statute to accomplish and how it affects that resource, being the water resource I say that because for those of us in the West, this is a critical concern to every western State. I am not just about to leave it up to Federal judges to make those life and death decisions on the basis of their own subjective values. The Congress has the capacity and the responsibility to state exactly what it is we intend to do.

Mr. Chairman I thank you very much for permitting me to make this statement at this point, and I do invite the sponsors and the witnesses to comment with respect to these questions so that we can have both a statute and a record that is beyond speculation by the courts or others.

Senator BUMPERS. Thank you, Senator McClure. Senator Burns?

Senator BURNS. I have no statement on this one. I have a statement on the next one. Thank you, Mr. Chairman. I think we should hear from our witness.

Senator BUMPERS. Why don't you go ahead, if you have a statement on the other. We are going to consider all of these bills. Feel free to go ahead and make your statement.

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. Thank you, Mr. Chairman. I appreciate your calling this hearing today in order that we might hear testimony on S. 1767, which I introduced along with Senator Baucus, Senator Symms, Senator Simpson and Senator Wallop last October.

The problem is a simple one, as far as this particular piece of legislation goes. The stock growers in States like Montana and Wyoming who have spent millions of dollars over the past decade eradicating brucellosis from domestic livestock, and that is a long, tedious and very expensive project whenever a State tries to be a certified free State—brucellosis-free. The Montana livestock industry has spent over 30 years getting it done up there, and \$30 million to eradicate it, and the cattle industry represents about \$1 billion in sales receipts in my State alone. Our livestock industry represents over \$2 billion investment on the hoof, so you can see we have a lot of money invested.

Now, these are not just stocker cattle that we are talking about. We are talking about—the Montana livestock industry represents the high end of replacement females and purebred livestock that lead the State of Montana. Montana was in the forefront years ago, performance testing and cross-breeding, and was in the business of selling—this will not mean much to a lot of folks, but F-1 heifers and replacement stock outside that State, and so we are not only a

producer of stocker cattle, we are producer of replacement cattle all over this country, and Montana is looked towards, for a long time, as a leader in the genetic pool of livestock production—cattle production.

If you will notice, the great trail herds from the South come to Montana looking for those kinds of range conditions, and of course it fostered that kind of an industry. But we have a potentially bad neighbor, and it is called the Federal Government. Montana and Wyoming are the home of the crown jewel of the National Parks System—Yellowstone National Park was the first of the national parks and the beginning of a unique idea which has spread across the world, and the Park plays an important role to the economy of our State also, but it is not the overriding role. The park needs to be a good neighbor.

After the fires in 1988, elk and bison moved out of the park for forage. There were no feeding programs provided inside the park, so they moved north into Montana, east and south into Wyoming, and in many cases these bison came in contact with our domestic cattle herds. A difficult decision was to be made by the State of Montana to test the cattle herds for brucellosis infection and to remove the bison either through hunting or by encouraging the bison to reenter the Park.

When the State veterinarian attempted to bill the National Park Service for the cost that office incurred in testing for brucellosis, his request was denied. I then wrote to the Park Service and also received a resounding "no" to my request. In fact, I was told "The scientific evidence to date is unclear as to whether the brucella organism which causes brucellosis is native or exotic to the park. Similarly, the scientific evidence to date is unclear as to what role the brucella organism may play in the ecology of the bison and to many of the other species with which it may be associated.

"Additionally, because the free-roaming nature of Yellowstone bison and elk herds, the large size and complexity of the park, and the interdependence of the various animal species with bison and elk is largely a wild natural system, any attempt to eradicate brucellosis from the park's bison and elk population using currently available techniques is likely to cause a significant and unacceptable impact on the park's natural resources and its wilderness quality. But of these current uncertainties we cannot accept at this time any actions that are designed to remove brucellosis organisms from the park."

Now, that is what the Park Service told me. In other words, the Park Service is not sure that the brucellosis organism may be an integral part of the Yellowstone Park. In my view, that is a bit like saying that cancer may be an integral part of the human condition, and I also wonder if the potential impact of eradicating brucellosis in the Yellowstone's bison herd would have anywhere near the impact on its wild nature that \$2 million visitors annually have to that wild Park.

I have more statement, but Mr. Chairman, this piece of legislation is endorsed by the Montana Stock Growers and the Public Lands Council of the Montana Association of Grazing Districts, the Montana Cattlemen, the Montana Farm Bureau Federation, the National Cattlemen's Association and the Public Lands Council.

All support this, and I have their letters of support and I would ask that they be made part of the record and thank you for this opportunity, and we will have questions later on.

[The prepared statement of Senator Burns and letters referred to follow:]

**BRUCELLOSIS REIMBURSEMENT
A STATEMENT BY SENATOR CONRAD BURNS (R-MT)
PUBLIC LANDS, NATIONAL PARKS AND FORESTS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
MAY 10, 1990**

Mr. Chairman, I appreciate your calling this hearing today in order that we might hear testimony on S. 1767, a bill I introduced along with Senators Baucus, Symms, Simpson and Wallop last October 18, 1989.

The problem is a simple one. Stockgrowers in states like Montana and Wyoming have spent millions of dollars over the past decade in eradicating brucellosis from domesticated livestock. Montana's livestock industry spent over 30 years and \$30 million dollars to eradicate brucellosis from the state.

The cattle industry represents nearly \$1 billion in sales receipts in my state. Our livestock industry represents over \$2 billion in investment on the hoof. These aren't stocker cattle we are talking about. The Montana livestock industry represents the high end of the scale. Nearly as many cattle in Montana will be sold as replacement stock across the country as are sold for slaughter. Montana is where the industry looks for improvements in the genetic pool.

Montana is ideal cattle country. The end point in the early Texas cattle drives to summer forage, Montana has provided range conditions that fostered an important industry.

But we have the potential of a bad neighbor in the federal government. Montana and Wyoming are home to the crown jewel of the National Park system. Yellowstone National Park was the first of the National Parks and the beginning of a unique idea that has spread across the world.

The Park plays an important role in the economy of our state. But, it is not the overriding role. The Park needs to be a good neighbor.

After the fires of 1988, bison began moving off the park in search of forage. There were no feeding programs within the Park. Bison moved north into Montana and east and south into Wyoming. In many instances, these bison came into contact with domestic cattle herds. The difficult decision was made by the State of Montana to test cattle herds for brucellosis infection and to remove the bison either through hunting or by encouraging the bison to reenter the Park.

When our State veterinarian Dr. Don Ferlicka attempted to bill the National Park Service for the costs that office had incurred testing for brucellosis his request was denied.

I then wrote a letter to the Park Service and also received a resounding no to my request. In fact, I was told that quote:

"The scientific evidence to date is unclear as to whether the brucella organism which causes brucellosis is native or exotic to the park. Similarly, the scientific evidence to date is unclear as to what role the brucella organism may play in the ecology of the bison and the many other mammalian species with which it is associated. Additionally, because of the free-roaming nature of the Yellowstone bison and elk herds, the large size and complexity of the park, and the interdependence of the various animal species with the bison and elk in what is largely a wild natural system, any attempt to eradicate brucellosis from the park's bison and elk populations using currently available techniques is likely to cause significant and unacceptable impact to the park's natural resources and wilderness quality. Because of these current uncertainties, we cannot accept at this time any

actions that are designed to remove the brucellosis organism from the park."

In other words, the Park Service is not sure that the brucellosis organism may not be an integral part of Yellowstone National Park. In my view that's a bit like saying that cancer may be an integral part of the human condition.

I also wonder if the potential impact of eradicating brucellosis from Yellowstone's bison herd would have anywhere near the impact on its wild nature that 2 million visitors annually have on the park's wildness? Our national parks are not wilderness areas - the subject of an entirely different bill - but are arks of nature in which we all share a responsibility.

The park must be a good neighbor. To begin, it should recognize its responsibility and pay its bills.

Mr. Chairman, I would like to have included in the record a statement by Dr. Don Ferlicka, Montana's state veterinarian, a statement by the Montana Stockgrowers Association, the Montana Public Lands Council, the Montana Association of State Grazing Districts, Montana Cattlemen, the Montana Farm Bureau Federation, the National Cattlemen's Association, and the Public Lands Council, in support of S. 1767.

Thank you Mr. Chairman.

DEPARTMENT OF LIVESTOCK



STAN STEPIEN, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

BRANDS ENFORCEMENT DIV. 400-444-2045
 ANIMAL HEALTH DIV. 400-444-2043
 BOARD OF LIVESTOCK - CENTRALIZED SERVICES 400-444-3083
 MEAT, MILK & EGG INSPECTION DIV. 400-444-0802

HELENA, MONTANA 59602

TESTIMONY SUBMITTED TO THE
 UNITED STATES SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS

(May 10, 1990)

Dear Mr. Chairman and Members of the Senate Subcommittee:

My name is Donald Ferlicka, I'm a doctor of Veterinary Medicine employed by the Montana Department of Livestock to administer its animal health laws. I reside in Helena Montana. Because of my close association with the issue that SB1767 represents, I appreciate this opportunity and thank the Committee for hearing my testimony.

The brucellosis situation within the confines of Yellowstone National Park are well stated within Section 1 of S.1767. findings. A large body of scientific evidence supports the existence of infectious brucellosis within populations of elk and bison in Yellowstone National Park. Recent published research findings define the ease of transmission of this disease of reproduction from these wildlife species to domestic cattle and thence to man. When infected wildlife move onto Montana ranches, they immediately put cattle on these ranches, and the health reputation of the State of Montana, at risk to the ruinous effect of brucellosis infection. In the affected animal, it results in abortion and stillbirth of calves and sterility of cows and bulls. Large sums of money must be spent to contain any risk to additional herds within the State. If nothing were to be done to contain or stop reintroduced infection it would, within twenty years time, find its way into seventy percent of our resident cattle herds. The resulting loss

Call Montana Livestock Crimestoppers 800-647-7464

of Brucellosis Free Status, in addition to the ravages of the disease on cattle and humans associated with infected cattle, would run into the many millions of dollars annually. The pregnant female bison is the most dangerous as far as transmission potential to cattle goes, but bison bulls also have a potential to spread the disease. The usual period of concern begins in early December and usually subsides by April. Obviously this period coincides with the last half of pregnancy in the female bison, and is also the period of harshest climatic conditions, as well as the period of greatest nutritional demand on the bison. It is important to emphasize that these conflicts occur on private ranch property and not on public land of any kind. The separation of bison from cattle under migratory circumstances has been achieved, up until now, by use of the necessary bison harvest using hunters supervised by the wardens of the State Department of Fish, Wildlife and Parks. This mechanism has itself come under criticism by certain segments of the public at large and this has generated considerable pressure for public officials to stop the harvest entirely. It may occur that at some future time, this protective mechanism could be lost. This mechanism was never intended to be used on the numbers of bison encountered in 1988 and 1989. It was designed at an earlier time to deal with much smaller numbers, but as the herd has grown the propensity to migrate has increased in terms of numbers. In 1988-89 virtually the entire 900 head Lamar Valley bison herd moved into Montana between December 12, 1988 and March 20, 1989. Five hundred sixty-nine bison were of necessity harvested on private property, to protect resident cattle from exposure. In spite of this, concern arose over undetected exposures and possible loss of export potential due to unfavorable brucellosis publicity. This required the Montana Department of Livestock to expend \$11,138.00 to blood test cattle in Southern Park County that were in habitual association with bison, to either assure that spill of brucellosis had not occurred or if it had, to intercept any spread to domestic

cattle that had occurred. Fortunately the former condition prevailed, this time. Since brucellosis vaccination in cattle is not a 100% guarantee against the introduction of infection, serological monitoring is the real first line of defense for Montana.

The USDA/APHIS has committed approximately 1.3 billion dollars Nationally, to the eradication of cattle brucellosis since 1934. The United States Department of the Interior, National Park Service, has deliberately preserved this focus of infection and Montana (along with Idaho and Wyoming) is caught in the dilemma that resulted. Montana was declared Brucellosis Free in 1985, after a thirty year, thirty million dollar battle to eradicate the disease from our cattle herds. There is a dollar cost associated with unresolved brucellosis infection in the United States today. Yellowstone Park claims that brucellosis is not a disease concern to them because there is no threat to the well being of wildlife populations and they feel there is no adverse affect on accomplishment of their mission. They also feel our fears are unfounded and exaggerated. Commercial cattle producers found they could not afford to live with brucellosis infection, even when disease impact could be limited. State animal health agencies responded to that by developing control-eradication programs. In addition to sero monitoring of cattle adjacent to Yellowstone Park, there is the cost of ongoing calfhood vaccination for brucellosis in the Brucellosis Free State, and we could even experience the cost of an outbreak of cattle brucellosis. A recent wildlife borne outbreak in Wyoming cost that ranch 1.1 million dollars for loss of cattle, out-of-pocket costs, and loss of future earnings. The real cost will come if the State of Wyoming loses its Brucellosis Free Status as a result of this outbreak. These costs of brucellosis were the incentive for brucellosis eradication by the cattle industry. Only if these costs could be transferred to

another, can the infected herd owner claim the disease is not oppressively expensive. This in effect, is what the National Park Service has done. Whether or not the National Park Service has actually been negligent or not for the volatile disease situation that exists is yet to be proven or disproven. However, since the Park is the haven and nidus for the reservoir species of brucellosis, they should be considered the party most responsible for the way things are and should be held responsible for costs put upon those who have no power to make policy and have little or no means to prevent the expansion of the nidus of brucellosis infection onto private land. There are several options the National Park Service could consider and others can be developed to relieve the situation, but as long as costs are paid by someone else, there is little incentive for them to seriously consider doing so. Although I think the National Park Service desires that Montana should maintain its Brucellosis Free Status, the management concept applied since 1967 shows a very low priority for that desire. I feel therefore that the Montana Cattle Industry must protect its interest as best it can. Sound disease control principles should prevail with the previously described measures applied as required.

Attachments 1 through 7 of this testimony contain the chronology of claim activities between the Montana Department of Livestock and the Department of the Interior, National Park Service. These attachments contain the specific rationale for our claims against the National Park Service. For the foregoing reasons, I request the committee to seriously consider passage of S.1767 so the Montana Claim for \$11,138.00 against the National Park Service can be honored; and the cost of their brucellosis can be placed where it rightfully belongs.

Thank you

MONTANA STOCKGROWERS ASSOCIATION, INC.

P.O. BOX 1679 — 420 NO. CALIFORNIA ST. — PHONE (406) 442-3420 — HELENA, MONTANA 59624

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MARTINDALE
JOHN T.
FLORENCE
AUGUSTA
HARRISON

May 4, 1990

The Honorable Conrad Burns
Room 825A Hart Senate Office Building
Washington, D.C. 20510

Dear Conrad,

The Montana Stockgrowers Association would like to commend you in your efforts to pass legislation that will provide a mechanism to reimburse Montana ranchers and the Montana Department of Livestock for those expenses they incurred to protect domestic livestock from the threat of brucellosis. Senate Bill S. 1767 would provide the ability for impacted livestock operators and the Department to recover costs that directly resulted from allowing bison and elk to drift out of Yellowstone Park to intermingle with our cattle.

As you are aware, Montana's livestock industry spent over 30 years and 30 million dollars to rid the state of brucellosis. Herd health is extremely important to our industry as Montana is recognized as a "premier" seed-stock producing state. The possibility of losing our brucellosis free status could cost Montana producers millions of dollars annually.

We continue to support the harvest of excessive numbers of wildlife, particularly bison, that drift from the Park, and applaud your efforts, as well as those of your colleagues, and Governor Stephens in addressing this issue.

Your bill is unequivocally fair in that ranchers who were required to expend monies to blood test their cattle (and must continue to administer calfhood vaccinations to protect their herds) should be compensated. Such would not be necessary if the National Park Service could, and would, control wildlife herd numbers in keeping with the carrying capacity of the Park, but such is not the case. As such, we, as private producers, must continue our basic herd-health efforts in order to avoid the threat of having a brucellosis outbreak in our state as occurred to the Parker Ranch in Wyoming.

We strongly concur with the intent of your bill that the Department of Interior is responsible for these increased costs since the National Park Service provides a haven for elk and buffalo (known brucellosis carriers) to build up in numbers and move freely out of Yellowstone Park. We believe the Park Service to be ultimately responsible for our added costs of doing business since we have no real power to stop these wildlife from intermingling with our own herds, even on private land. As such, we strongly endorse Senate Bill 1767 and advocate its quick passage.

Sincerely,

Bill Brown, Jr.
Bill Brown
President

cc: Dr. Ferlicka, Montana Department of Livestock
Montana Congressional Delegation
Wyoming Congressional Delegation
Governor Stephens
Burton Eller, NCA
Betty Munis, NCA

MONTANA PUBLIC LANDS COUNCIL

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GEORGE RATHS ROUNDUP
MAYNARD SMITH GLEN
MARIE STEVENS ASHLAND

May 4, 1990

The Honorable Conrad Burns
Room 825A Hart Senate Office Building
Washington, D.C. 20510

Dear Conrad,

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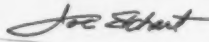
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Sincerely,



Joe Etchart
Chairman

cc: Dr. Ferlicka, Montana Department of Livestock
Montana Congressional Delegation
Wyoming Congressional Delegation
Governor Stephens
Burton Eller, NCA
Betty Munis, NCA

MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS

420 North California St.

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 Mark Davies, Vice President Chinook
 Steve Eskeland, Past President Glacier
 Kim Eskeland, Executive Secretary Helena

DIRECTORS
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 Henry Gordon Chinook
 Jim Rathes Laramie

May 4, 1990

The Honorable Conrad Burns
 Room 825A Hart Senate Office Building
 Washington, D.C. 20510

Dear Conrad,

The Montana Association of State Grazing Districts would like to commend you in your efforts to pass legislation that will provide a mechanism to reimburse Montana ranchers and the Montana Department of Livestock for those expenses they incurred to protect domestic livestock from the threat of brucellosis. Senate Bill S. 1767 would provide the ability for impacted livestock operators and the Department to recover costs that directly resulted from allowing bison and elk to drift out of Yellowstone Park to intermingle with our cattle.

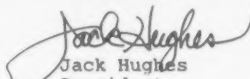
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Sincerely,


Jack Hughes
President

cc: Dr. Ferlicka, Montana Department of Livestock
Montana Congressional Delegation
Wyoming Congressional Delegation
Governor Stephens
Burton Eller, NCA
Betty Munis, NCA



P. O. Box 1679
Helena, Montana 59624
(406) 442-3420

May 4, 1990

The Honorable Conrad Burns
Room 825A Hart Senate Office Building
Washington, D.C. 20510

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...THE VOICE OF WOMEN IN THE CATTLE INDUSTRY.

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Sincerely,

Ethel Berg

Ethel Berg
President

cc: Dr. Ferlicka, Montana Department of Livestock
Montana Congressional Delegation
Wyoming Congressional Delegation
Governor Stephens
Burton Eller, NCA
Betty Munis, NCA

**MONTANA FARM BUREAU FEDERATION**

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

May 2, 1990

Senator Conrad Burns
Dirksen Senate Building
Washington, D.C., 20510

Dear Senator Burns:

We are in receipt of your proposed bill to reimburse the State of Montana and individuals for expenses incurred to treat cattle for brucellosis carried outside of Yellowstone National Park by the elk and bison.

Montana Farm Bureau members support an effective brucellosis eradication program so the state can maintain its certified brucellosis free status. This would include the testing of cattle in and around Yellowstone National Park when those cattle come in contact with the elk and bison that leave the park.

We support this legislation and will do what ever we can to help get the bill passed in this session of Congress.

Sincerely yours,

David L. McClure
President

DLM/lmf

NATIONAL CATTLEMEN'S ASSOCIATION

1301 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20004 • (202) 347-0228

**National Headquarters**

6420 S. Quebec St. • P.O. Box 3489 • Englewood, CO 80155 • (303) 694-0305

May 10, 1990

The Honorable Conrad Burns
United States Senate
Washington, D.C. 20510

Dear Senator Burns:

On behalf of the National Cattlemen's Association, I am writing in support of S. 1767, a bill to reimburse Montana, Wyoming and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison and other economic losses caused by need to destroy infected cattle and for other purposes.

Following is NCA policy on brucellosis as it relates to Yellowstone National Park:

BRUCELLOSIS

WHEREAS, it is well known that Yellowstone Park elk and buffalo herds are infected with brucellosis, and there are approximately 4 times the buffalo (2400) that good herd management would allow for feed supply (600); and

WHEREAS, there are also 16,000 elk where food supply would furnish only 8,000 head; and

WHEREAS, other national, state, reservation and privately held wildlife herds may be reservoirs of brucellosis,

THEREFORE BE IT RESOLVED, that to protect ranchers adjacent to these lands, from brucellosis infection in their cattle herds that the National Cattlemen's Association use strong diplomacy to convince the National Park Service and other proper agencies to develop and implement an effective disease control management plan of the animals within the existing boundaries of these lands, thereby completing the state-federal cooperative brucellosis eradication program upon which large sums of money have been expended thereby resulting in keeping the animals from pushing out of these lands and onto other range.

Your proposed legislation is consistent with the intent of our policy. We believe the National Park Service should be held accountable and financially responsible for the spread of brucellosis to cattle from bison and elk who roam from the park.

Both Montana and Wyoming are officially designated brucellosis free. The introduction of brucellosis into the domesticated cattle herd jeopardizes the status of the entire state, putting all cattle producers at risk. If these states were to lose their "Free" status, producers would be subjected to additional regulations and testing requirements in order to move their cattle interstate.

The National Park Service in the past has been unwilling to acknowledge the problem that exists with infected bison and elk spreading brucellosis to domesticated animals.

Your legislation will make the National Park Service accept its responsibility.

Sincerely,



Tom Cook
Director, Industry Affairs

Public Lands Council

1301 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C. 20004, (202) 347-5355

National Cattlemen's Association
P.O. Box 3489
Englewood, CO 80155
(303) 694-0305

American Sheep Industry Association
8011 South Yosemite Street
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(303) 771-3500

Association of National Grasslands
Box 1028
Hettinger, ND 58639
(701) 567-4300

May 10, 1990

The Honorable Conrad Burns
183 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Burns:

The Public Lands Council represents 31,000 permittees who hold leases and permits to graze livestock on federal lands in the 14 western states.

PLC strongly supports S. 1767 requiring the Department of Interior to reimburse the States of Montana and Wyoming and individuals for expenses and economic losses caused from elk and bison of Yellowstone National Park infecting domestic livestock with brucellosis organisms.

We are seriously concerned about this dangerous disease that causes domestic cattle and wildlife to abort their young. As livestock operators, we are proud of the wholesome food and fiber we produce for our nation. Brucellosis and similar diseases pose a genuine threat to our livestock, our reputations, and our livelihoods. Moreover, brucellosis is transmittable to humans and can cause undulant disease through consumption of infected animal's meat or milk.

Brucellosis can have devastating economic consequence to ranchers. Once a cattle herd is identified as having brucellosis or simply coming from an area infected with the disease, the value of the livestock drops tremendously. Suddenly, no one wants to buy the animals. The producer's marketing options are severely limited as the herd may lose its "certified free status", and movement of animals between states is sharply curtailed. In some cases, the animals are even required to be destroyed because of the disease. Brucellosis jeopardizes the health and integrity of the cattle industry and costs livestock producers millions of dollars to track and control.

We find the National Park Service's lack of accountability and management regarding this issue scandalous. NPS consciously allows brucellosis infected elk and bison to freely enter and exit Yellowstone National Park. Yet, NPS has done nothing to control the disease, in either elk or bison populations, or to control the spread of brucellosis to domestic livestock. Montana, Wyoming, and the livestock producers in those states should not be taxed for the National Park Service's blatant lack of management responsibility.

We completely agree that the Department of Interior should be fully responsible for all costs incurred for livestock testing and losses due to brucellosis transmitted by elk and bison from Yellowstone National Park. S. 1767 accurately places the financial responsibility for management actions where it is justly due.

Sincerely,

Jim Magagna
Jim Magagna
President

Senator BUMPERS. Without objection, those will be submitted for the record.

Fine. We have Congressman Craig Thomas from the House of Representatives. Congressman Thomas, welcome to the Committee.

Mr. THOMAS. Thank you very much, Senator.

Senator BUMPERS. Governor Sullivan, would you also just go ahead and take a seat to the right of Congressman Thomas and we will treat you and Senator Simpson when he comes back as a panel.

Governor, we are honored to have you before our subcommittee this afternoon.

Governor SULLIVAN. Thank you very much, Mr. Chairman.

Senator BUMPERS. Go ahead, Congressman.

STATEMENT OF HON. CRAIG THOMAS, U.S. REPRESENTATIVE FROM WYOMING

Mr. THOMAS. Thank you, Mr. Chairman. I am pleased to be here today with the Governor of Wyoming and my colleagues, Malcolm Wallop and Al Simpson. I would like to thank you, Mr. Chairman, and Senator Wallop for holding the hearing, which is designed as you have already stated, to designate a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System.

I am particularly pleased to be here because this is my home country, as it is Senator Simpson's. We both grew up in Cody and this is adjacent to Cody, so it is not only in our state, but indeed, in the area that we were born and raised in.

Furthermore, it is our 100th anniversary, and this is part of that celebration. I think it is interesting and important that the entire Wyoming delegation is here with the Governor, which gives you an idea of the strong level of bi-partisan support and commitment that there is.

This issue has been on-going for some time, since 1978 in fact, when the notices for study were given. At that time a 21.5 mile section was recommended for Wild and Scenic River designation, and it was introduced in the Congress in 1982 by formal nomination. It never came about and, therefore, we are back again.

I am strongly in support of this proposal. Clearly, there is support and a need to set aside this unique area.

As you have pointed out, I suspect that if there is an area for discussion, it is that of the system in which we deal with the water. We think it is important that a state like Wyoming in an arid part of the country has a role in determining the quantification of the flows, that that is not only reasonable but indeed is prudent for a state of our kind.

The effort here, as you go through the bill you will find, is to establish an intermediate flow; quantify that flow, in this case, half of the flow at that point; and then have a system in which both the Secretary of Agriculture, the Federal Government and the Governor have a role in determining whether that ought to be more or less.

There are some users above this segment and we, of course, once entered the segment, there is no way to take from it.

I am interested in Senator McClure's comments. I am on the Interior Committee in the House. We have worked recently on Arizona Wilderness in an effort to find a way to involve the state in this matter and not leave it entirely to a Federal judge, and I think that is the effort here.

The procedure is unique, and I think it is a good one. It simply sets the flow in the bill. It is one that is approximately equal to the in-stream flow we have under Wyoming state law that is in place in the segment now—approximately 6 miles in this same area. So, there is a reason and some background for setting that quantitative amount.

Then it provides, of course, that jointly you go forward with it; it provides a hammer to cause that to happen. We think it is unique, but we think this ought to be a partnership and feel very strongly about the State's involvement in the adjudication of the State's water.

So, Senator, I will stop there. If there are any questions I can answer, I will be very happy to. We are proud of this bill. We think it is particularly fitting that it came this year and that it has the joint state and Federal cooperation in the adjudication of water. Thank you very much, sir.

[The prepared statement of Mr. Thomas follows:]

STATEMENT OF CONGRESSMAN CRAIG THOMAS

MAY 10, 1990

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

DESIGNATION OF THE CLARKS FORK RIVER AS A

WILD AND SCENIC RIVER

I'm pleased to be here today with the Governor of Wyoming, Mike Sullivan and my colleagues, Malcolm Wallop and Al Simpson.

I would like to thank Chairman Bumpers and Senator Wallop for holding this hearing on S. 2343, designating a segment of the Clarks Fork River in the State of Wyoming as a component of the National Wild and Scenic Rivers System.

I think the fact that the entire Wyoming Delegation is here today with the Governor of Wyoming gives you an idea of the strong level of bipartisan commitment to include the Clarks Fork in the Wild and Scenic River system.

This issue has been debated since 1978 when the Forest Service first gave notice that a study was to begin. The Final Environmental Impact Statement, completed in February 1979, recommended a 21.5 mile section for Wild and Scenic designation and legislation was introduced in Congress on September 13, 1982, formally nominating it. By law, Congress had 3 years to act but did not do so. The Delegation put the nomination on

hold until a clear decision could be made about proposed water projects affecting this stretch of the river. In August 1988, Governor Sullivan called for a federal wild and scenic designation subject to certain conditions with regard to water.

I strongly support this proposal. The Governor's request that the State be allowed to participate in determining the quantification of flows is not only reasonable, it is the only prudent course for an arid State that needs to share in the control of its own water.

Clarks Fork originates in Montana, swings down into Wyoming and then pours into the Yellowstone River which heads back up into Montana. In their final Environmental Impact Statement, the Forest Service recommended a 21.5 mile segment of the river for designation. But to insure that a downstream dam would not back water up into the wild and scenic designation, the Governor shortened the proposed stretch.

I would like to thank Patty Harris and Diana Flaherty for coming today to testify on behalf of the bill. They own 136 acres of land located within the designation. The bill provides funds for purchasing land, or interests in land, but only on a willing buyer/willing seller basis.

We worked hard to come up with legislation that would ensure that those values which make the Clarks Fork so remarkable

would be protected for the enjoyment of future generations -- its fragile beauty, awesome power and its historical significance. At the same time, we have given the State a role in the adjudication of its most important resource --- water.

I am proud of this bill, Mr. Chairman, and I think it is particularly fitting that we include the Clarks Fork in the wild and scenic system in the same year the State celebrates its 100th birthday.

Senator BUMPERS. Thank you, Congressman.
Governor SULLIVAN.

**STATEMENT OF HON. MIKE SULLIVAN, GOVERNOR, STATE OF
WYOMING**

Governor SULLIVAN. Mr. Chairman, members of the Committee, for the record, I am Mike Sullivan, Governor of the State of Wyoming. I appreciate this opportunity to testify before you in support of designating 20.5 miles of the Clarks Fork of the Yellowstone River in northwestern Wyoming as a component of the National Wild and Scenic Rivers system.

The Clarks Fork Wild and Scenic River Designation Act of 1990 is the culmination of over a decade of evaluation and discussion, a matter that was in my lap when I took over as Governor. If approved by Congress, the Clarks Fork would become Wyoming's first Wild and Scenic River and would join many firsts in the Federal system—Yellowstone, Devils Tower, Shoshone Forest and the others.

In the case of the Clarks Fork designation, I can think of no better time for such a designation, an historic event to occur, than during this year when Wyoming is celebrating its statehood centennial.

The segment of the Clarks Fork that is proposed to be designated and preserved is uniformly recognized as an area of unmatched, untouched beauty. The narrow, steep canyon walls, the waterfalls, rapids and cascades and the deep, slick pools which make up this stretch of the river are a priceless resource in their natural state and typify the rugged beauty of Wyoming and the West. The Clarks Fork is unquestionably a river that deserves special designation and warrants, like no other canyon river in the country, with the possible exception of the Grand Canyon, the national recognition that will accompany such a designation.

I announced my support for the Clarks Fork Wild and Scenic River designation in August 1988 after months of careful review of both sides of the issue. And there is more than one side of the issue. As with any complex issue, I found persuasive arguments on both sides.

On the one hand, I was requested to consider the importance of our Yellowstone River Compact and urged not to do anything that would even remotely compromise future opportunities to develop that important water allocation. I was urged not to allow the Federal Government to assert further control of additional Wyoming lands and resources, which is inconsistent with the Wyoming ethic and philosophically distasteful to numerous Wyoming citizens.

On the other hand, proponents of the designation pointed out the outstandingly remarkable natural beauty of the river and canyon, the tremendous economic and environmental expenses that would face any major water development project in the upper reaches of the Clarks Fork and the water development options that could, while also expensive, still be pursued concurrent with such a designation.

After reviewing these and other arguments, I determined that it was in the State's best interest to support the Clarks Fork Wild

and Scenic River designation, subject to certain conditions. These conditions included accommodation of a possible dam and reservoir immediately downstream of the segment so that Wyoming could utilize its Compact allocation in the future. To accommodate such potential development, I recommended the lower boundary of the segment be established about one mile upstream from the Shoshone National Forest boundary. I also asked that the legislation include language to indicate that such development is not to be hindered by, or considered incompatible with, the Clarks Fork designation.

I heard Senator McClure's comment about a Federal proceeding; I think he is absolutely right. It should not be limited to a Federal proceeding but should be any proceeding with respect to that.

As another condition, I wanted to assure that Wyoming had a seat at the table and was directly involved in determining the amount of stream flow necessary to protect the scenic, recreational and historic values of the segment. I recommended that the necessary flow reservation be jointly determined by the State and the Forest Service within 3 years of the designation, which mirrors the timeframe for development of the required comprehensive management plan for the segment.

This approach will ensure that the technical expertise and resources of our State Engineer's Office, Game and Fish Department, Recreation Commission and other agencies are fully utilized in a cooperative effort with the Forest Service to objectively determine the flows necessary to protect the values for which the segment is being designated. Wyoming has a history of successful State/Federal partnerships, and I firmly believe that my proposed Clarks Fork flow quantification approach will build on that history and be successful.

The Clarks Fork Wild and Scenic Act of 1990 also reflects the conditions and recommendations that I have discussed. Further, it includes appropriate safeguards to protect private property rights and to assure proper management and protection of the canyon environment.

Finally, it also reflects concerns, as Senator Wallop has said that he had previously expressed, in particular the inclusion of a congressionally specified temporary or interim minimum flow quantification which would apply pending conclusion of the joint State/Forest Service flow quantification effort.

The suggested interim flow quantification has drawn its share of debate. It should be recognized that its main purpose is to help prevent potential judicial circumvention of the joint State/Forest Service flow quantification process, and because of in-stream flow protection already granted, together with existing rights, it would have application only in two or three months in the year.

Additionally, I would hope that the focus is on the long-term protection of the Clarks Fork, and I want to assure this Committee and all interested parties that my support for the Clarks Fork designation indicates my commitment to provide flows necessary to preserve the scenic, recreational and historic values of this segment through the joint flow quantification process.

For those who would criticize Wyoming's desire to participate in the quantification, I would simply say that we lie at the headwa-

ters of several river drainages, water is literally the lifeblood of our arid agricultural state, and I am personally unwilling and politically, frankly, incapable of abrogating or surrendering completely the determination of flow quantities to the Federal Government.

While I am willing to consider alternatives to the 50 percent minimum flow language, which was responsive to Senator Wallop's concerns and designed primarily to reflect our good faith effort in this negotiation and commitment to the designation, I am not willing to accept, on behalf of the State of Wyoming, a Federal determination without state input. It is too important to our State.

Mr. Chairman, I have viewed the reaches of the Clarks Fork from a helicopter and thought I was suspended in a beautiful painting. I have hiked and fished a major portion of it and felt I was somehow transported into a movie set of sheer rockwalls, waterfalls, bluegreen pools, all of unimaginable proportions.

The legislation before you recognizes the true economic and environmental value of the Clarks Fork as a wild and scenic resource, while retaining the opportunity for future water development to enhance our state's interest. Such a designation is the clearest possible statement of our commitment to the quality of life and the economic opportunity for future generations of Wyoming citizens, and in the sense of what it seeks to protect and what it says as to the values of the people of Wyoming, it speaks volumes.

I respectfully urge you to act favorably and expeditiously on this legislation, to enact the Clarks Fork Wild and Scenic River designation as a lasting legacy for Wyoming and for this Nation.

As Governor I cannot and am unwilling to support giving up an unquantified Federal reserve water right without any state input, and the bill reflects that. As Governor, I chose in 1988 to support Wild and Scenic designation because this river cries out for it. We can participate and will participate in protecting and assuring protection for this valuable resource.

Thank you very much, Mr. Chairman.

Governor SULLIVAN. I would have a couple of very brief comments on the brucellosis bill, but would be happy to respond to questions or make those comments, however you would prefer.

Senator BUMPERS. Governor, with your indulgence, Senator Simpson has now returned. I would like to get the testimony from him so that we have the panel complete.

Governor SULLIVAN. Thank you.

STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR FROM WYOMING

Senator SIMPSON. Mr. Chairman, I do thank you and appreciate your courtesies in having this hearing. I have a statement; I would ask that the entire text of it be placed in the record——

Senator BUMPERS. Without objection.

Senator Simpson [continuing]. Accelerate my remarks. I know the reputation of the chairman, one of the fastest gavels in the entire Senate.

Therefore, I am very pleased to be here with my friend Malcolm Wallop and Craig Thomas and our Governor. We are all here today on the same issue, obviously, Republican and Democratic support

for this bill. We represent both the Federal and State-level support of this bill. We are committed to the legislation which would designate the course of the Clarks Fork.

I heard the Governor speak as I came into the room of his impressions of that country. He married a girl from that part of the world, and I have lived there all my life. It is one of the most stunning pieces of earth you can imagine, with a remarkable history and a mystery to it of Chief Joseph and the Nez Perce Indians, and it is spectacular.

We have all worked very hard for this. This delegation, Dick Cheney before us, former Governor Ed Herschler, a Democratic governor, and now Governor Sullivan, worked closely with the people of Wyoming to develop this. We have had great deliberation of the language.

I could go into my own personal knowledge of the place, but I shall not.

But water is our lifeblood in Wyoming, and in the arid states. There is no other subject that gets our attention or juices us up more than that. How much do we have? Where does it go? How does it leave the state? Who it belongs to? And those are the things that are the heart of survival in our country. And so levels of importance and emotion and opinion are very strong, and there is a great deal of controversy and this legislation is no exception.

But because of the importance of that water our state officials have such a vital and necessary presence in any negotiations. Certainly, I know that you know that our Governor has to be listened to, not just the delegation. He must be a part of the process. Our constitution states that the waters of the state are owned by the state. This issue of the quantity of water which should be left in the Clarks Fork River or any river in Wyoming in order to protect our scenic, recreational, historic values is very real and for us, I think, to decide.

And so, I would hope that as you process this—I certainly say that I do not claim to know the needs of certain communities in Arkansas, I do not know the ins and outs of local constituencies in Colorado or New Jersey or Montana, and I do not want to be in a position to have to make those decisions which would so greatly affect my fellow members of the Senate and those of you who serve on this Committee and Subcommittee. And likewise, I respectfully and honestly request from you that very same courtesy.

We have tried very hard. We represent the vast majority of people. Some are not satisfied; they are the local and national special interest groups who expressed their concern with the language. They are concerned about the flow quantification that is mutually determined by the state and Federal Government as being one that gives veto power over a Federal reserved right. They are concerned about the state's participation, as allowed by our bill, how that affects the status of Federal reserve water rights as it has been interpreted by various courts.

These concerns are not really concerns for our state. They show no concern for state rights or state control or state participation. They are concerns about a precedent in water law. It is a precedent they do not agree with, and yet they seem more than delighted to set the precedent that states do not have the right to help set a

flow quantification. They do not really have an argument with precedent setting; they have an argument with how that comes out.

So, we want to get it done. It is our centennial year; others have spoken on that. We think it is fair and we are very up front with it. There are no tricks in it; it is not a sinister approach to do anything. It is an approach to keep the Federal courts out of our water while we are doing an important bill, nothing more.

I thank you very much for your special consideration.

Mr. Chairman, I do have a statement on the brucellosis issue and would like to have that inserted in the record and join with my friend Malcolm Wallop and Max Baucus and Conrad Burns. And I will simply insert that.

I am pleased that John Sharp is here to tell you a real horror story of the hardships of brucellosis uncontrolled on Federal lands when we are so proud of the fact that we have brucellosis-free states in Montana and in Wyoming.

I thank the Chairman.

[The prepared statement of Senator Simpson follows:]

STATEMENT OF SENATOR ALAN K. SIMPSON
MAY 10, 1990
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
DESIGNATION OF THE CLARKS FORK RIVER AS A
WILD AND SCENIC RIVER

I AM ABSOLUTELY DELIGHTED TO BE HERE TODAY WITH MY COLLEAGUES IN CONGRESS, MALCOLM WALLOP AND CRAIG THOMAS, AND WYOMING'S GOVERNOR, MIKE SULLIVAN. WE ARE HERE TODAY REPRESENTING BOTH REPUBLICAN AND DEMOCRATIC SUPPORT FOR THIS BILL -- AND WE REPRESENT BOTH FEDERAL AND STATE-LEVEL SUPPORT FOR THIS BILL. WE ARE COMMITTED TO THIS LEGISLATION WHICH WOULD DESIGNATE THE CLARKS FORK RIVER AS A PART OF OUR NATION'S WILD AND SCENIC RIVERS SYSTEM.

WE HAVE WORKED VERY HARD ON THIS LEGISLATION FOR SO MANY YEARS. IN 1982, THE REAGAN ADMINISTRATION FIRST RECOMMENDED A PORTION OF THIS RIVER FOR INCLUSION INTO THE NATION'S WILD AND SCENIC RIVERS SYSTEM. THIS DELEGATION, DICK CHENEY BEFORE US, FORMER GOVERNOR ED HERSCHLER, AND GOVERNOR MIKE SULLIVAN HAVE ALL WORKED CLOSELY WITH THE PEOPLE OF WYOMING TO DEVELOP THIS BILL. WE HAVE ALL DELIBERATED AT GREAT LENGTH OVER THE APPROPRIATE LANGUAGE TO MEET ALL OF OUR NEEDS, AND IT IS A GREAT COMPROMISE PIECE OF LEGISLATION AND ONE THAT I AM VERY PROUD TO SUPPORT.

I HAVE PERSONALLY HIKED, FISHED, AND BACKPACKED IN THAT AREA ALL OF MY LIFE. THAT IS "HOME GROUND" TO ME. THERE ARE PLACES THERE THAT ARE SIMPLY STUNNING. HIKING IN THAT AREA IS AN OVERPOWERING EXPERIENCE. I DO NOT WANT TO SEE THAT DIMINISHED. THE AREA NEEDS TO BE PROTECTED AND I AM READY TO DO THAT.

WATER, IN THE WEST, IS OUR LIFEblood. THERE IS NO OTHER SUBJECT THAT GETS OUR ATTENTION LIKE THE ISSUE OF WATER DOES -- HOW MUCH WE HAVE, WHERE IT GOES, HOW IT LEAVES OUR STATE, WHO IT BELONGS TO. THESE ISSUES STRIKE AT THE HEART OF OUR SURVIVAL. AND BECAUSE OF THAT LEVEL OF IMPORTANCE, EMOTIONS AND OPINIONS ARE STRONG. THERE IS ALWAYS A GREAT DEAL OF CONTROVERSY AND ATTENTION OVER ANY PROPOSAL OR IDEA THAT AFFECTS OUR WATER. THIS LEGISLATION IS SURELY NO EXCEPTION. BECAUSE OF THE IMPORTANCE OF OUR WATER, OUR STATE OFFICIALS ARE THEN VERY MUCH A VITAL AND NECESSARY FACTOR AND PRESENCE IN ANY NEGOTIATIONS THAT DEAL WITH OUR WATER. A WILD AND SCENIC DESIGNATION SHOULD BE NO EXCEPTION. OUR GOVERNOR INDEED DESERVES TO BE A PART OF THE PROCESS THAT ESTABLISHES THE QUANTITY OF WATER WHICH SHOULD BE LEFT IN THE CLARKS FORK RIVER -- OR ANY RIVER IN WYOMING WHICH MAY BE CONSIDERED FOR A WILD AND SCENIC DESIGNATION -- IN ORDER TO PROTECT THE SCENIC, RECREATIONAL, AND HISTORIC VALUES OF THAT SEGMENT OF RIVER.

I FEEL VERY, VERY STRONGLY ABOUT THE NEED TO PRESERVE THAT FRAGILE AND BEAUTIFUL NETWORK OF CLIFFS, CANYONS, AND OLD INDIAN TRAILS. NONE OF US WANT TO SEE THAT OVERWHELMED WITH DEVELOPMENT. I FEEL JUST AS STRONGLY ABOUT THE NEED TO PRESERVE THE RIGHT FOR OUR STATE TO PARTICIPATE IN NEGOTIATIONS AND DISCUSSIONS OF STATE WATER RIGHTS. I SURELY DON'T CLAIM TO KNOW THE NEEDS OF CERTAIN COMMUNITIES IN ARKANSAS, I DON'T KNOW THE INS-AND-OUTS OF LOCAL CONSTITUENCIES IN COLORADO OR NEW JERSEY, AND I DON'T WANT TO BE IN A POSITION TO HAVE TO MAKE THOSE DECISIONS WHICH WOULD SO AFFECT MY FELLOW MEMBERS OF THE SENATE AND THOSE OF YOU THAT SERVE ON THIS SUBCOMMITTEE. LIKEWISE, I RESPECTFULLY AND HONESTLY REQUEST FROM YOU THAT VERY SAME COURTESY.

WE, THE WYOMING DELEGATION HERE TODAY, JOINED BY OUR GOVERNOR, HAVE LISTENED TO THE PEOPLE. WE REPRESENT THE VAST MAJORITY OF PEOPLE IN OUR STATE IN SUPPORTING THIS DESIGNATION. WE REPRESENT THE MAJORITY OF PEOPLE IN OUR STATE IN SUPPORTING THE LANGUAGE CONTAINED IN THIS BILL. NOT ALL PEOPLE ARE SATISFIED. THERE ARE SOME LOCAL AND NATIONAL SPECIAL INTEREST GROUPS WHO HAVE EXPRESSED THEIR CONCERNS WITH THE LANGUAGE. THEY ARE CONCERNED ABOUT A FLOW QUANTIFICATION THAT IS MUTUALLY DETERMINED BY THE STATE AND FEDERAL GOVERNMENT AS BEING ONE THAT GIVES VETO POWER OVER A FEDERAL RESERVED RIGHT. THEY ARE CONCERNED ABOUT HOW THE STATE'S PARTICIPATION -- AS ALLOWED BY OUR BILL -- AFFECTS THE STATUS OF FEDERAL RESERVED WATER RIGHTS AS HAVE BEEN INTERPRETED BY VARIOUS COURTS IN THIS NATION. THESE CONCERNS ARE NOT FOR OUR STATE. THEY SHOW NO CONCERN FOR STATE RIGHTS, OR STATE CONTROL, OR STATE PARTICIPATION. THEY ARE CONCERNED ABOUT A "PRECEDENCE" IN WATER LAW -- A PRECEDENCE THEY DON'T AGREE WITH. YET THEY SEEM MORE THAN DELIGHTED TO SET THE PRECEDENCE THAT STATES DO NOT HAVE THE RIGHT TO HELP SET A FLOW QUANTIFICATION. THEY DON'T HAVE AN ARGUMENT WITH "PRECEDENCE SETTING" -- THEY JUST HAVE AN ARGUMENT WITH HOW THAT COMES OUT.

WE VERY MUCH WANT TO GET THIS DESIGNATION ACCOMPLISHED IN THIS YEAR, WHICH IS WYOMING'S CENTENNIAL YEAR. WE ARE ALL CELEBRATING THAT ACROSS OUR FINE STATE IN A VARIETY OF CREATIVE, DESERVING AND INSPIRATIONAL WAYS. THIS DESIGNATION FOR A WILD AND SCENIC RIVER IN OUR STATE'S CENTENNIAL YEAR WOULD MAKE THAT EVENT ALL THE MORE SPECIAL.

I THANK THE COMMITTEE.

Senator BUMPERS. Thank you, Senator Simpson. If I could, Governor and Senator Simpson, I would like to defer the Montana brucellosis bill until we just ask a few questions on this one. I will say that I am extremely sympathetic to what you are trying to do on that measure. We have fought for so many years in my state to become a brucellosis-free state. We had achieved that status at one time and then slid back. We got as low as, I think, a Class C. We had 800 and some infected herds in Arkansas.

Now we are back up to where, I think, we only have about maybe in the 30s or 40s left and we hope to eradicate those this year. We have gotten some Federal help and state cooperation and so on. We have really made giant strides. It is not only dangerous from an economic standpoint because the farmers lose their calf crop, but when you start trying to ship cattle across state borders, that presents a big problem, too.

When I got ready to run for Governor, I had to sell my cattle to get enough money to run. I was running against Rockefeller; he did not have to sell his cattle. And when I got my herd up to test before they were registered, and I was going to take them down to the local sale barn and sell them even though they were registered, I had one suspect—every cattle farmer knows what a suspect is—and that was about to throw my sale, which had been widely advertised, completely out of kilter.

But happily, we got under the wire and found the suspect and it was not infected in time to go ahead with the sale. But I can tell you those things can cause a great deal of grief. And I am quite sure that I will support that bill with enthusiasm.

Let me ask you, Governor, in regard to S. 2343 you mentioned a moment ago that you would not support this bill with the exclusive right to the water or the determination of the reservation of water by the Federal Government. I think this reserved water issue, while it is highly contentious, hopefully can be worked out.

But it is important, like it is in everything else, that we all be, not like ships passing in the night, but we are very clear on what we really intend by the language of the bill. And it is possible that the bill could stand a little improving to make sure we are all on the same wavelength.

Now, the opposite of that is for Wyoming to have veto power over the water. Is that your intention?

Governor SULLIVAN. No, sir. We have two extremes in this. We could say Wyoming makes the determination; we could say the Federal Government makes the determination. I think we both have an interest in this segment and the legislation tries to accommodate those interests.

It is a very important decision to us and to abrogate or just surrender it to the Federal Government or to suggest that it is only the Federal Government that has the ability or the capability or the confidence to make that decision is clearly not only contrary to Wyoming water law, but contrary to what we continue to fight for all the time. As Governor, I just cannot say, yes, this is a river deserving designation and then surrender the entire process to the Federal Government.

Senator BUMPERS. Well, I think your point is certainly legitimate. The bill provides that the state will administer the water

within the designation. Just on the face of it it looks as though that is to the exclusion of the Federal Government, or at least a superior right. If that is not the case, if they are supposed to be equal, then how would disputes be resolved?

Governor SULLIVAN. The purpose of it, as I understand that language, is to leave that water right and the Federal Government, if it is designated and the quantification is made, in the same position that they are in now with some rights that have already been quantified on that river and with respect to every other owner of a right or holder of a right in Wyoming. It is consistent with state law. We are the administrator of the water within our state. We believe we should remain to be the administrator of the water, and there is no intention to alter that. It would be honored along with any other right that was appropriated under our law.

Senator WALLOP. Mr. Chairman, if I may? The Governor is absolutely right. The administration is entirely different than quantification. Once, under law, water is quantified the administrator has no choice but to administer it according to the law. Wyoming has done that historically. The Federal Government does not administer water in Wyoming. The state has been, always has been, the administrator of water and it does it according to law, whether Federal law or state law; federal law to the extent that it is affected by the Bureau of Reclamation projects or other kinds of things. But we do administer it.

Governor SULLIVAN. And the Federal Government now has rights on that river under an interlocutory decree which are administered by the state along with all other rights.

Senator BUMPERS. The Wild and Scenic Rivers Act provides that the jurisdiction of the states over waters of any streams included in a National Wild River area shall be unaffected by this chapter to the extent that such jurisdiction may be exercised—well, I am not sure I know what that means. Essentially, the Wild and Scenic Rivers Act provides that there must be enough water reserved to carry out the purposes of the designation, which means that you have got to make that decision, I think, on the front end, have you not? And if you are going to comply with the Wild and Scenic Rivers Act, you have to reserve enough water on the front end to carry out the purposes of the designation.

Governor SULLIVAN. Well—

Senator BUMPERS. What if that is more than 50 percent? What if it is as much as 80 percent?

Governor SULLIVAN [continuing]. It may be as much 80 percent. That is the process that the bill is designed to address. What we do not want is a bill, which I understand many would advocate, that says it shall be reserved, as much water as is required for this purpose, without saying what that is or who decides what it is or leaving it totally in the hands of the Federal Government to accomplish. The 50 percent, frankly, is designed as a safety net to reflect our good faith and nothing more, to say that we are serious about this. I do not believe it will be 50 percent. I think it will be greater than 50 percent, on the basis of everything that I know. As a matter of fact, the existing rights and the in-stream flow rights that Wyoming has already adopted for that river will take up nearly 100 percent in all but two or three months which are the

high water months when that river goes wild. We just want to have a part in making a determination—what is it that is required to maintain the wild and the scenic and the recreational aspects of that river.

Senator WALLOP. Mr. Chairman, I would just add to what the Governor has said, that the State and the Forest Service were involved in good faith negotiations as to what that quantity of water was, and the Forest Service was unprepared to say yet. That left the State with the choice of proceeding on the Governor's recommendation without any knowledge of what the ultimate consequence would be or waiting until the Forest Service makes up its mind and then make our judgement as to whether or not the designation fits. The reasoning behind the state is, among other things, one, the river deserves protection; two, the safety net is a good beginning to that safety provision. But most importantly, it fits within the time frame, as the Governor said in his opening remarks, a three-year plan for protection of the river. Is that correct, Governor? I mean, you have already been involved in that negotiation. And there has been no hostility or enmity between the state. The Forest Service itself does not know.

Senator BUMPERS. Governor, if I may just clarify this, hopefully for all of us. The bill provides that the State of Wyoming and the Department of Agriculture will work this out, that is, how much water is necessary to carry out the purposes of this bill. But the problem, I think, that is troubling is that it says pending that happy day, the water shall be allocated half and half, 50 percent and 50 percent. Conceivably if you do not ever work it out that would be the mutual allocation forever. Is that not intended?

Governor SULLIVAN. Essentially, if you project that I think that is the conclusion that you would reach. The alternative is to say the state and the Federal Government will work it out and put no provision as to what happens if they do not. That was a concern that Senator Wallop had with the original language proposed, which was the state and Federal Government would quantify the flow required.

Senator BUMPERS. Are you willing to clarify the language if that is an ambiguity in the bill or if that is a problem with the bill? Let me tell you, I am a former Governor so I certainly understand your position and I am not interested in denigrating the rights of Wyoming to the water. But still we have a generic bill, the Wild and Scenic Rivers Act, which says you have to reserve enough water to carry out the intent. Otherwise, there would not be any point in having the Wild and Scenic Rivers Bill if you were not going to have enough water for it to be a wild and scenic river.

Senator WALLOP. That is the alternative, Mr. Chairman.

Governor SULLIVAN. I suppose that is the alternative and frankly I was toying with that alternative last night, that we do this, say we have three years to agree, and if we do not agree, then it is undesignated. That river is still going to be the same and whether it is 50 percent in the interim or not, there is going to be about 90 percent flowing through that river because that is the nature of the appropriations at this time. That is only during two or three months that it has any impact.

Senator WALLOP. Mr. Chairman, I might just say that what the Governor says is correct. There is a point from which he and we could retreat. This bill says within three years after the date of enactment of this paragraph, the Secretary shall conclude an agreement with the Governor of Wyoming which specifies the quantity of water, et cetera.

Then it says pending conclusion of such segment the Congress hereby expresses the reserves, and so on. So, the government has perhaps more of a hammer than we wish to cede to them in the first place.

I just point out, again, that we have introduced this bill with the recommendation and enthusiastic support of the Governor to protect this segment of the river. But it is not now threatened. That designation or that attempt can be withdrawn until such time as they figure it out anyway. It does not seem to make sense if the purpose of the environmental community and others is to protect the river.

Senator SIMPSON. Mr. Chairman?

Senator BUMPERS. Senator Simpson?

Senator SIMPSON. Mr. Chairman, I think on page three that it is clear, as Senator Wallop has said. Within three years—there it is, very clear, line 8 through line 15—not only is it going to be done, it says the Secretary shall conclude the agreement with the Governor of Wyoming. Then it says the Secretary shall notify this Committee of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives of action taken.

I do not see any problem with the original Act, the Wild and Scenic Rivers Act, under section 1284 of the bill, where it talks about designation of any stream or portion as a national wild, scenic or recreational river shall not be construed as a reservation of the waters of such streams for purposes. That means Federal reserve water rights. It means other reserved water rights.

I will tell you where we are, and knowing the Chairman as I do, we are right where if it is not pure enough for him, I would hate to see it disappear and not get done. This is just what we did with the Clean Air Act for 10 years. It was not good enough for people so we did nothing. Those who thought it was not good enough are directly responsible for watching SO₂ and NO_x belch into the atmosphere for 10 years. This is one of those typical examples, right here, of that same kind of mentality. They want to say that it is precedent; they have all sorts of dream-world stuff about it. Without this protection in our state, it is not going to happen. Now that is the reality of this baby.

Senator BUMPERS. Section b(2) states that the water from the river segment shall be reserved. I think that means for the river, does it not? Not really from that segment, from the Wild and Scenic River segment?

Governor SULLIVAN. I read the staff's comment on that. I think it was that a literal reading of that would suggest the only reserved water is from the 20.5 mile segment.

Senator BUMPERS. That is not the intent?

Governor SULLIVAN. That is clearly not the intent. In order to maintain this river you would have to have upstream water.

Senator BUMPERS. Senator Wallop, do you have questions?

Senator WALLOP. No, Mr. Chairman. I think we have developed it. The Governor has stated clearly his intention, his purpose to negotiate fairly and freely with the Forest Service. It is also in his statement that in order to satisfy downstream rights more than 50 percent of the water that is in there has to flow down now; nothing can divert that. There are no power projects, there are no dams, there are no other kinds of things that are threatening those upstream waters which would in any way interfere with the good faith negotiations on the part of the State of Wyoming and the Forest Service. It is just an absolute straw man.

Senator SIMPSON. Mr. Chairman, if the Federal designation did not take place—I do not want that to be left as some threat out there—we will take beautiful care of that river, thank you. We really will. It would be nicer if it were encompassed within this system, but if it is not, there is nothing that is going to happen to that river because we will take care of it. We do not want to spread it with dams and so on. Everything has been talked about very openly all those years.

Senator BUMPERS. How far is the headwaters of this river from the beginning of this segment?

Governor SULLIVAN. It starts in Montana. I believe—I cannot give you the number of miles, but it is about 15 to 20 miles.

Senator BUMPERS. Is there any prohibition in the legislation against hydro-electric projects upstream from the beginning of the river segment?

Governor SULLIVAN. No, except to the extent that in order for it to remain wild in this segment you would have, if there were any, and I think the studies would suggest they are much too expensive and not appropriate in that area—it is all on Forest Service to start with. If there were any, they would have to accommodate the wild and scenic nature of the river. That is my understanding.

Senator WALLOP. The point is also clear. The first prohibition is engineering, the second prohibition is the Forest Service. But the most virulent prohibition is—

Governor SULLIVAN. Is environmental.

Senator WALLOP [continuing]. The right that you establish here would be senior to any right that you established up above it anyway.

Mr. THOMAS. There is also in place now a state instream flow which provides that the water must be delivered for that purpose, 200 CFS—

Governor SULLIVAN. 200 CFS, which protects the fishery but clearly does not protect the wild and scenic nature of the river.

Senator BUMPERS. Now there is a specific provision saying that there is not any prohibition against anything downstream. Is that correct?

Governor SULLIVAN. That is correct. And again, that alternative is very expensive and, I think, unlikely. But we have an allocation under the Yellowstone Compact that we certainly did not want to forfeit.

Senator BUMPERS. Does this river flow into the Yellowstone at some point?

Senator BURNS. Yes.

Governor SULLIVAN. I would invite you out. It is magnificent.

Senator BUMPERS. I am sure it is, and I may take you up on that some day.

Senator BURNS, do you have any questions?

Senator BURNS. I do not have any questions. The only reason I am sitting and listening to this thing is that I have a lot of sugar beets between the Montana line and where it flows into the Yellowstone.

Senator WALLOP. A wild and scenic beets?

Senator BURNS. Wild and scenic beets. [Laughter.]

Senator BUMPERS. Gentlemen, thank you very much. Governor, if you would like to stay and testify on this Montana brucellosis bill, we would be delighted to have you do that.

Governor SULLIVAN. I could just very quickly, in about 15 seconds, tell you everything.

Mr. THOMAS. If you will excuse me, please. We have a bill identical to this in the House that we'll be considering. I thank you for your time.

Senator BUMPERS. Thank you, Congressman. Thank you for coming over. And Senator Simpson, thank you very much.

Senator SIMPSON. Mr. Chairman, thank you for your courtesy. Governor?

Governor SULLIVAN. May I make a couple of quick comments on brucellosis, and then I will stay to hear some—

Senator BUMPERS. Certainly.

Governor SULLIVAN [continuing]. That is a very complex problem; it clearly requires a Federal participation. Because of the nature of some of the claims, I am not in a position to talk at great length about it. I put together a task force to look at it from our standpoint as a state and from Game and Fish.

I would make one comment about the staff memo that I read with respect to brucellosis where it suggested, and I do not know if it is still true, but it is suggested in the memo that, since the role of the brucella organism cannot be determined, whether it is native to the park or not, the Park Service is unwilling to say that it should be eradicated from the park.

That is outrageous in my opinion and smacks of the "let it burn" policy that I think we have all been over the coals on—on pun intended—and it is just unacceptable to say well, it may have been there—cancer, as the Senator referred to, so we just have to leave it there, notwithstanding what it might do to those outside.

Senator BUMPERS. Governor, thank you again very much. We certainly appreciate your coming out from Wyoming to be with us this afternoon.

Senator WALLOP. Before the Governor leaves I would like to thank you for coming here on both bills. But I think it is important for this committee and the Park Service and others to realize that it is not only the livestock industry but the hunting, sporting industry that is threatened by this. Human beings can acquire undulant fever from eating the meat or handling the offal of infected animals. That is an important part of our State's and Montana's livelihood as well and not something to be viewed as only for the livestock community, though it be sufficient reason by itself if it were.

Governor SULLIVAN. It is very important that we address it.

Thank you.

Senator BUMPERS. Thank you again.

Our next witnesses are Mr. John M. Morehead, Associate Director for Operations of the National Parks Service and James C. Overbay, Deputy Chief, Forest Service, Department of Agriculture, and he is accompanied by Billy Johnson, Associate Deputy Director for Veterinary Services, Animal and Plant Health Inspection Services, Department of Agriculture.

Gentlemen, I am going to have to turn you over to the tender mercies of my ranking colleague, Senator Wallop.

Senator WALLOP [presiding]. Senator Bumpers, thank you. And once again, thank you for your and your staff's courtesy in scheduling this hearing.

I do not have a witness list instantly in front of me, so whoever he called first, please proceed. Oh, here we go.

Mr. Morehead.

**STATEMENT OF JOHN M. MOREHEAD, ASSOCIATE DIRECTOR,
OPERATIONS, NATIONAL PARK SERVICE, DEPARTMENT OF THE
INTERIOR, ACCOMPANIED BY DR. JOHN DENNIS, CHIEF, SCI-
ENCE BRANCH, WILDLIFE AND VEGETATION DIVISION**

Mr. MOREHEAD. Thank you, Mr. Chairman. My name is John Morehead, Associate Director of Operations for the National Park Service. I am accompanied by Dr. John Dennis, the Chief of the Science Branch of our Wildlife and Vegetation Division. May I bring him to the table, too, sir?

I have a highlighted statement that I would like to read. The original statement has been submitted for the record.

Mr. Chairman, it is a pleasure to appear before this subcommittee today to present the Administration's position on S. 1767. While we share Montana and Wyoming's desire to keep domestic cattle in those States brucellosis free, we oppose enactment of this bill.

It is well documented that some bison and elk in Yellowstone National Park carry the bacterium, *Brucella abortus*, for the disease referred to as brucellosis, also known as undulant fever in humans. What is perhaps not so well known is the range of other wild animals that carry this disease, and where it may occur. It would be fallacious to assume that it is confined to Yellowstone National Park or, for that matter, to bison and elk.

There has long been a concern for the spread of brucellosis into domestic herds adjacent to Yellowstone by migratory elk. That concern was highlighted recently when large numbers of bison left the northern range for private lands outside the park. As a result of this concern, the National Park Service is working closely with other Federal and State agencies through an ad hoc brucellosis technical working committee, which was established in 1988. The committee is composed of technical experts from the National Park Service, U.S. Fish and Wildlife Service, the U.S. Animal and Plant Health Inspection Service, the State of Wyoming's Game and Fish Department, the State veterinarians of Idaho, Montana and Wyoming, and brucellosis researchers.

We believe the results of these interagency efforts will support administrative actions that we can take separately and in concert

with one another, as well as suggest any additional legislative authority we may need to successfully manage this issue.

Mr. Chairman, there is an additional issue here that should be noted, that being the Federal liability for impacts on privately owned livestock beyond the boundaries of Yellowstone National Park. Bison and elk both are native animals maintained in a wild and free roaming condition. When they or other wildlife leave the park, they become the responsibility of the State, and the National Park Service has neither responsibility nor liability for them.

We would suggest that Congress not address the singular case in the Greater Yellowstone Area without the realization that it represents merely a fragment of the total subject of wildlife management on Federal lands.

The specifics of S. 1767 concern us in several areas. As I stated, it is our view that when the animals cross from the park onto State lands, they become a State responsibility. It is this very premise that underlies the States' ability to regulate the harvest of these animals outside the park.

Section 2(a) of the bill would have the Secretary of the Interior reimburse the State of Montana and/or individual cattle owners if there is merely a risk of them becoming infected due to wild herds migrating from the park. In the first place, these National Park Service herds lose their legal identity the minute they enter non-Federal lands.

Second, the lack of sufficient information on the transmission of brucellosis from one animal to another in truly wild situations does not permit the quantification of risks to domestic cattle. Consequently, it may be impossible to identify when the demonstrated risk has occurred.

Finally, in the case of elk, many of the offending animals spend little or no time within the national park and cannot be considered Yellowstone National Park elk. Identifying which animals are the culprits and where they came from would be difficult at best.

Mr. Chairman, let me reiterate our concern for the financial problems that cattlemen and the States of Wyoming and Montana experience as a result of the potential spread of brucellosis from wildlife. We are working both diligently and cooperatively with all interested parties, including the states surrounding Yellowstone, to reach an effective solution to the problem. Enacting S. 1767, in our view, would not contribute to that effort.

This concludes my prepared remarks, Mr. Chairman. Thank you.
[The prepared statement of Mr. Morehead follows:]

STATEMENT OF JOHN M. MOREHEAD, ASSOCIATE DIRECTOR, OPERATIONS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON S. 1767, A BILL TO REIMBURSE THE STATE OF MONTANA FOR EXPENSES INCURRED TO TEST CATTLE FOR BRUCELLOSIS ORGANISMS CARRIED OUTSIDE YELLOWSTONE NATIONAL PARK BY ELK AND BISON, AND FOR OTHER PURPOSES.

May 10, 1990

Mr. Chairman, it is a pleasure to appear before this Subcommittee today to present the Administration's position on S. 1767, a bill which, if enacted, would require the Secretary of the Interior to reimburse the State of Montana and/or individual cattle owners for the testing of their cattle for brucellosis if there can be demonstrated a risk that such cattle might become infected due to exposure to Yellowstone National Park elk or bison. There would be authorized to be appropriated \$50,000 for the current fiscal year and a similar amount for the next two fiscal years.

Mr. Chairman, while we are not unconcerned about Montana's desire to keep domestic cattle in that state brucellosis-free, we oppose enactment of S. 1767.

It is well documented that some bison and elk in Yellowstone National Park carry the bacterium, Brucella abortus, for the disease referred to as brucellosis, also known as undulant fever in humans. What is perhaps not so well known is the range of other wild animals that carry this disease and where it may occur. It would be fallacious to assume that it is confined to Yellowstone National Park or, for that matter, bison and elk. We are not

unconcerned about the interests of our neighbors. In a moment I will address the actions we are taking to demonstrate that concern.

The effects of brucellosis are similar in bison, elk and cattle, the primary one being the abortion of fetuses formed during the cow's first cycle of conception. The prevention of a full-term pregnancy in cattle is economically significant both to dairy farmers, who lose their milk and/or calves, and to ranchers, who lose income because of abortions, must pay for surveillance and vaccination programs, as well as risk losing cattle to disease eradication efforts. There is the further concern that infected animals may communicate brucellosis to humans.

There has long been a concern for the spread of brucellosis into domestic herds adjacent to Yellowstone, but that concern was heightened recently when large numbers of bison left the northern range for private lands within Montana. As a result, the National Park Service and the State of Montana intensified their efforts in an attempt to prevent the spread of the disease into brucellosis-free herds.

An Ad Hoc Brucellosis Technical Working Committee was established in 1988 to study this issue. The Committee is composed of technical experts from the National Park Service, U.S. Fish and Wildlife Service, the U.S. Animal and Plant Health Inspection Service (APHIS), the State of Wyoming's Game and Fish Department,

the state veterinarians of Idaho, Montana and Wyoming, and brucellosis researchers. We have encouraged the Committee to review all existing scientific information about brucellosis and its relationship to domestic cattle and native animals. Further, we have suggested where additional research is needed and encouraged them to identify alternative management strategies for meeting the needs of maintaining bison in a natural condition and preventing the intermingling of wild bison, elk and free-ranging domestic cattle.

On a separate, parallel track the Service is working cooperatively with APHIS to develop technical information and to identify Federal management alternatives. A report from this group is due to be completed later this Spring.

The State of Wyoming has recently established its own task force to study the brucellosis issue. Yellowstone National Park is cooperating with the task force.

Finally, the Montana Department of Fish, Wildlife and Parks, the National Park Service, and the U.S. Forest Service are cooperating in the preparation of a plan for the management of the bison herds of Yellowstone National Park. The general public has been invited to participate in this planning process.

We believe the results of these interagency efforts will support

administrative actions that we can take separately and in concert with one another as well as suggest any additional legislative authority we may need to successfully manage this issue. Enacting legislation at this point we believe would be premature.

Mr. Chairman, there is an additional issue here that should be noted, that being the Federal liability for impacts on privately owned livestock beyond the boundaries of Yellowstone National Park. Bison are native animals maintained in a wild and free-roaming condition. When they or other wildlife populations leave the park they become the responsibility of the state, and the National Park Service has neither responsibility nor liability for them. We would suggest that Congress not address this singular case in the Greater Yellowstone area without the realization that it represents merely a fragment of the total subject of wildlife management on Federal lands.

The specifics of S. 1767 concern us in several areas. In the findings section of the bill it is stated that when these animals cross over onto state lands they represent a defacto expansion of Federal holdings. As indicated above, when the animals cross over onto state lands they become a state responsibility. It is this very premise that underlies the states' authority to regulate the harvest of these animals.

Section 2(a) would have the Secretary of the Interior reimburse

the State of Montana and/or individual cattle owners, if there is merely a risk of them becoming infected due to national park herds. In the first place, these "national park herds" lose their legal identity the minute they enter non-Federal lands. Secondly, the lack of sufficient information on the transmission of brucellosis from one animal to another in truly wild situations does not permit the quantification of risk to domestic cattle. Consequently, it may be impossible to identify when the "demonstrated risk" has occurred. Finally, many of the offending elk spend little or no time within the national park and cannot be considered Yellowstone National Park elk. Identifying which animals are the culprits and where they came from would be difficult at best.

Mr. Chairman, let me reiterate our concern for the financial problems that cattlemen and the State of Montana experience as a result of the potential spread of brucellosis from wildlife within Yellowstone National Park. We are working both diligently and cooperatively with all interested parties, including the states immediately surrounding Yellowstone, to reach an effective solution to this problem. Enacting S. 1767, in our view, would not contribute to that effort.

This concludes my prepared remarks on S. 1767, Mr. Chairman. I would be pleased to respond to your questions at this time.

Senator WALLOP. Thank you.

Mr. Overbay.

Mr. OVERBAY. Mr. Chairman, I have a statement on two bills. The Clark's Fork and Scenic River Bill, and also on the transfer of the Calaveras Bigtree National Forest to the State of California. I do not have a statement on the brucellosis bill.

Senator WALLOP. OK. Let us then proceed with the brucellosis legislation. Have we got other witnesses?

Mr. OVERBAY. Mr. Johnson has accompanied me. He does not have a statement either, but he is prepared to answer questions on the brucellosis bill.

Senator WALLOP. I am glad to hear of the good neighbor policy. The Park Service is not only threatened because of what takes place outside of the park, but so is what outside the park threatened by what takes place inside the park. If the National Park System is insistent upon being held harmless from the effects of things which take place outside, then it has an equal obligation to look to the effects of circumstances that exist within the park that can move outside.

Now, at Hawaii Volcanoes National Park, you take fairly active measures, do you not, to remove exotic goats from the park and to prevent exotic goats from entering the park.

Mr. MOREHEAD. That is correct, sir.

Senator WALLOP. How much money do you spend on this program?

Mr. MOREHEAD. I do not have the exact figures. We can furnish them.¹

Senator WALLOP. Will you supply them to the Committee?

Senator WALLOP. But your policy is at Hawaiian Volcanoes is to keep exotic species outside the park?

Mr. MOREHEAD. That is correct, sir.

Senator WALLOP. Why?

Mr. MOREHEAD. When that is possible, through money and the effort that we have available, that is policy and the goal.

Senator WALLOP. Why is that your policy?

Mr. MOREHEAD. The purpose of the park is to let the native wild animals and plants interact in an ecological way as much as possible. Exotic plants interfere with that native plant and animal interaction, and therefore, are not within the purpose of the establishment of the area.

Senator WALLOP. Is the gypsy moth an exotic species?

Mr. MOREHEAD. Yes, it is.

Senator WALLOP. What measures do you use to keep the moth out of the natural areas of Shenandoah National Park?

Mr. MOREHEAD. As I said, within reason, within the money available, we are trying to fight the gypsy moth within developed areas, but we do not spray the entire Shenandoah National Park. We simply do not have the manpower, the resources to do it, nor are we sure of what the effects of spraying the gypsy moth throughout the entire park would be on the native plants and animals. We are researching that question now.

¹ See Appendix I.

Senator WALLOP. But the gypsy moth was not there before the establishment of the park.

Mr. MOREHEAD. That is correct, sir.

Senator WALLOP. What animals are capable of contracting the brucellosis disease?

Mr. MOREHEAD. I would refer to Dr. Dennis, if I may sir.

Dr. DENNIS. I ~~do not~~ have a complete list here, but various members of the canids, rodents, other ungulates, grizzly bears, black bears are a number of the kinds of animals. Caribou and reindeer carry a different species of the disease—brucellosis. So it is a wide range of mammals that can contract it.

Senator WALLOP. Where did brucellosis in the park come from originally?

Dr. DENNIS. We do not know exactly where it came from. That is one of the unanswered questions which our research program is attempting to investigate.

Senator WALLOP. I think your research program will tell you, no matter how hard you try to have it not, because I think that is what you have already determined, that it came from the reintroduced bison population in 1917.

Dr. DENNIS. I do not think our research program has concluded that, yet.

Senator WALLOP. I think it has concluded that. I think you are trying to figure a way to have it not conclude that, most of what we have been able to gather, but there is four interagency groups, one of which has been formed since 1988.

Mr. MOREHEAD. That is correct.

Senator WALLOP. Are there any results from any of these groups addressing the brucellosis issue?

Mr. MOREHEAD. Not to my knowledge, not as yet.

Senator WALLOP. What would the Park Service policy be if these groups studying the brucellosis issue recommended that the Service should treat bison and elk in the park for brucellosis?

Mr. MOREHEAD. Again, we would certainly consider that, and we would also have to consider how much impact that treatment would have on the native animal populations, how much it would cost and how much manpower it would take.

Senator WALLOP. Dr. Johnson, we have a vote, but perhaps you would comment on where brucellosis is common around the country.

Dr. JOHNSON. At the present time, Mr. Chairman, brucellosis is primarily a disease in the Southeast and south central states. We have 28 States that are now considered free of brucellosis. Those are states primarily of the eastern seaboard, from South Carolina up through the New England states, across the northern states. Most of the western states, except for California, are now free of brucellosis. This would include the states surrounding Yellowstone, the states of Wyoming and Montana. Idaho is in their 12-month waiting period for being declared free; they have no known infected herds at the present time.

Senator WALLOP. So in that region, one would say that Yellowstone is virtually unique in its capacity as a reservoir for this disease?

Dr. JOHNSON. Yes sir, we feel it is.

Senator WALLOP. Senator Burns, do you want to question while I go vote, then I will come back?

Senator BURNS. We could do that or both of us could go over there. We would be gone 10 minutes, probably. We could declare 10 minutes.

Senator WALLOP. The Subcommittee stands in recess for 10 minutes while we go vote.

[Recess.]

Senator WALLOP. The subcommittee will come back to order. Senator Burns, did you have some questions?

Senator BURNS. I have a couple of questions, I guess, just so we go on the record. I would ask Mr. Morehead, do you know the approximate numbers of the buffalo or bison that you have in Yellowstone Park, approximately?

Dr. DENNIS. It is approximately 2,400, plus or minus a couple hundred.

Senator BURNS. Will it carry that many?

Dr. DENNIS. It depends on how you define carry. It has had more than that, and it has had fewer than that.

Senator BURNS. I mean, we go through all this business of scientific findings, and you can ask any old rancher that does business out there, and they have a pretty good idea of the carrying capacity of a section of land. Of course, you have got much more than one section of land, but I am wondering if you determined if will it carry that many? In other words, if there is not anything to eat, then you have problems with them coming out of the Park.

Mr. MOREHEAD. On a heavy winter, sir, it will carry much less, since they are not fed. So, the carrying capacity will drop on a heavy winter. That is what happened two winters ago when about 600 of that northern herd left the park in one winter.

Senator BURNS. And you have no supplemental feeding programs, when you went into winters like that? Is that correct?

Mr. MOREHEAD. That is correct, sir.

Senator BURNS. And I guess the next question would be, there has been no attempt or anything to test that herd up there to see what percentage you would have infected with brucellosis, or that would be reactors?

Dr. DENNIS. That is not correct. There are data that have been collected through the years, and it is somewhere around 50 to 55 percent reactors.

Senator BURNS. What do you do with those reactors? Are they taken out and destroyed, or what do you do with the reactors?

Dr. DENNIS. The herd is managed as a wild, free roaming herd. It is not managed as a domestic herd, and so there is no management of the brucellosis-infected animals within the park.

Senator BURNS. With that management practice, and those of us who live in Montana, of course when we find one in anybody's herd, then we usually try to take steps to make sure that we quarantine the herd, and the reactors are shipped, branded and shipped as bangers, to be quite honest with you. And I am wondering if you are going to be neighbors to domestic livestock operations, and even though it could be a park system, and you cannot say that Yellowstone Park has to be managed in its wild, sort of a wilderness, setting, for the simple reason that anytime man enters, and

2.5 million people a year go through that park, so you have to take different management tactics, rather than managing for a wilderness area. Would that be correct? Is that a correct assumption?

Mr. MOREHEAD. That is correct, sir, but we find that the wild animals—bison, elk, deer, moose—have adapted to those people staying mostly on the roads.

Senator BURNS. They have also adapted to Yellowstone Park, because I think you would find that bison are not native to that kind of terrain, is that correct?

Dr. DENNIS. As far as I know, there have always been some bison in that terrain.

Senator BURNS. They were taken back, and just like the senator from Wyoming was stating, that the reintroduction was in 1917, and bison were very seldom ever seen in the mountainous areas. They were mostly seen in the prairies and the short grass country.

Has Yellowstone Park or any other national park reimbursed joint property owners for stock losses attributed to park animal depredations?

Mr. MOREHEAD. Not to my knowledge.

Senator BURNS. That is all the questions I have.

Thank you, Mr. Chairman.

Senator WALLOP. I would like to ask one more time, if these groups do recommend a controlled program in the park, will the Park Service consider it?

Mr. MOREHEAD. We will consider it, sir, without making a promise to do it. Yes, sir.

Senator WALLOP. You would never make a promise to do anything that would fold your good neighbor policy, and I understand that. But I urge you to pay attention. The Park use to help, did it not?

Mr. MOREHEAD. Pardon?

Senator WALLOP. The park use to help control brucellosis?

Mr. MOREHEAD. That is correct.

Senator WALLOP. But it does not now?

Mr. MOREHEAD. That is right.

Senator WALLOP. And why is that?

Mr. MOREHEAD. Just an evolution of our policy. We used to feed the animals up in Yellowstone.

Senator WALLOP. That is when you stopped being a good neighbor and start being one that is difficult to get along with.

Mr. MOREHEAD. If you remember, sir, we also used to shoot the surplus populations, so no animals migrated outside. And that has also been stopped.

Senator WALLOP. That was also a part of a thing that has begun to take place, where—the Park Service, correctly in my judgment, but nevertheless, does expect the surrounding territories to the parks to look after much of the environmental impact of what they do on the park. You expect that, and in fact, you come to Congress and ask us to legislate that from time to time. Why does that not work in the other direction?

Mr. MOREHEAD. In this case, it does not appear to be working, sir, but we certainly hope it does in other instances.

Senator WALLOP. It does not work at all. In fact, what you are doing is affecting the livelihoods, the herds of game animals of Wy-

oming, Montana, Idaho. You are infecting the livestock herds, the livelihoods of people who are outfitters, of people who are ranchers, because of a policy that adamantly refuses to be a good neighbor on an issue that very much affects the environment of the territory outside the park.

Now, if we had something outside the park that was affecting it inside as much as brucellosis does the outside, you would insist on it. In fact, you would take action yourself, would you not, because you do in Shenandoah, you do in the Hawaii Volcanoes, and yet you expect the rest of the public to accept the fact that there is something honorable about a program which clearly damages the environment that exists immediately around the park.

I urge Park Service that that will not last long, and it does not help in terms of the other kinds of reactions that you depend on from your neighbors.

Mr. MOREHEAD. Well, sir, your position is exceptionally clear, and I will pass it on to the director. I do understand.

Senator WALLOP. I appreciate it. I would like to call Mr. Story up and try to maintain the brucellosis side of this, and then we will go to the river and the other issue.

John, come on up, and we will hear your statement. To my knowledge, you are the only other brucellosis witness.

**STATEMENT OF JOHN STORY, PRESIDENT AND GENERAL
MANAGER, PARKER LAND & CATTLE CO., INC.,**

Mr. STORY. Thank you for inviting me. It will be a pleasure to testify. My name is John Story. I am president of Parker, general manager of Parker Land and Cattle Company in Dubois, Wyoming. Until recently, we were a cow-calf operation with production of cattle. We live south of Yellowstone, Grand Teton and National Elk Refuge, which are all involved in this thing.

Brucellosis, as everybody knows here now, is a highly contagious disease that affects all sort of ungulants, all carnivorous animals, including our bears and even our eagles, highly contagious in humans. The disease is spread mainly—actually, it can be spread year around, but they are more contagious when they are in the calving process and shortly afterwards. It spreads very easily through contact, through discharges, through placentas that have been dropped, through unborn calves, all sorts, there are all sorts of inroads for this to go into other animals.

It was once quite often seen in the population with contact—humans exhibit a flu-like symptom. It would be very debilitating, they are very sick, they have anywhere from three days to three months at a time with each onset. Later stages after it has been contracted by humans, they get a very pronounced swelling of the joints, severe back problems.

We have one man that works for us that contracted brucellosis through the cattle that we had before they were depopulated. We were very concerned about his health. He is a young man, child bearing man, it is going to be with him for the rest of his life, as far as that goes. Right now, the only alternative he has is that when he has an onset of this he goes on to a real heavy, strong antibiotic for six weeks at a time, and the antibiotic, I can tell you,

is just about as bad as the fever, because he becomes very ill from taking it.

The control and eradication program was started by the U.S. Government in 1934, the pasteurization of milk, vaccination of young animals, testing and destroying infected animals have all helped. The Federal Government has presently spent approximately \$1.5 billion to eradicate brucellosis in domestic livestock. Each of the several states, in the United States, have spent almost as much money, because they all have participated in this program.

There has been a tremendous amount of personal loss to the farmers and ranchers in the country when they contract brucellosis. There is a small indemnity that goes with the destruction of their herds, and I can testify that it does not cover anywhere near the expense that is involved or the losses.

In Yellowstone National Park, Grand Teton National Park, the National Elk Refuge and the feed grounds of northwest Wyoming, there are about 22,000 head of elk. Conservative figures say that 50 percent of those are infected. At that figure, that is 11,000 head of animals running loose that have brucellosis, and each one of them is a potential spreader of the disease.

When you add the animals that are endemic to the park that stay there year round, that number increases dramatically. It just becomes astronomical, and as those animals migrate out of the park, it is a very disastrous situation, and it is a powder keg that is just waiting to explode in the industry, in the livestock industry as a whole.

We have had a lot of problem with environmentalists and animal study people in the parks who say we cannot get our grizzly bear to produce. If they sampled the blood on those animals they would find most of them have brucellosis. It affects bears, the same as it does livestock, elk, deer, bear, and all the other things. It keeps them from reproducing. It keeps them from having live offspring, and if they do have any offspring, it is not viable for very long.

Our ranch in 1989 was determined to have brucellosis. We had sent some cattle to—shipped to slaughter, and a couple of them showed up as positive reactors in the slaughterhouse, and they came by, we quarantined the herd, and tested, and we sure enough had it, a nice dose of brucellosis.

On the second test, we also showed up with some more reactors, and in that process they tested approximately 7,000 head of cattle in northwest Wyoming that may have come in contact with our cattle. None of these cattle seem to have brucellosis, other than vaccination titres, so, the government sent Dr. Bridgewater in, who is a regional epidemiologist from the APHIS, USDA APHIS, and he did a study that concluded that there were no outside sources of brucellosis in livestock in that area, that the only source was the known population of brucellosis-infected animals.

His report is not conclusive, as nothing can be exact. He just says that there is an awful lot of evidence that points to the wildlife as the infecting cause of these cattle. We had a study also done and an evaluation done from the University of Colorado through several epidemiologists there, and their conclusion was even more conclusive than Dr. Bridgewater's. He was just 99 percent sure that this is what happened, that it came from the wildlife.

At one time Grand Teton National Park, Yellowstone National Park had a brucellosis control program in effect. It must have been effective because they had tested and slaughtered reactors, they had vaccinated the young animals for a long time, and during the hands-off policy, when that started, they abandoned the brucellosis control program. They allowed the facilities to deteriorate to the point that they have since been destroyed.

The big cry and hue now is, we cannot control brucellosis, we do not have any way to do it. They did it one time, and they did it effectively at one time. And it is not impossible, because other states and other agencies have the facilities and the knowledge, and the desire does not seem to be there to do it seems to be the big problem.

Senator WALLOP. John, we are going to have to leave again in a few minutes for another vote. I hate to accelerate things, but it is out of our control.

Mr. STORY. The rest of the statement has been submitted in written form, so it is no great problem. We feel that the Park Service and the Federal Fish and Wildlife do not really care what happens outside of the park, and that they need some direction.

And as I have stated in here in one place, in the minutes from a closed-door meeting, the Park Service personnel said, we need congressional direction to give us some direction as to what to do. And hopefully, these hearings will have that addressed so that the Park Service will have some direction to follow.

[The prepared statement of Mr. Story follows:]

My name is John Story. I am pres. & gen. mgr. of Parker Land & Cattle Co., Inc., Dubois, WY. This ranch operates south of Yellowstone Natl. Park (YNP), Grand Teton Natl. (GINP), and the National Elk Refuge (NER). Our principal business has been until recently a cow-calf operation. The reason I am here today is to testify about brucellosis in domestic livestock caused by contamination by elk and buffalo and to explain what I feel needs to be done to correct this problem.

Brucellosis is a highly contagious disease in many warm-blooded animals - i.e., cattle, buffalo, elk, all carnivores including bears; also, eagles and humans. These are some of the animals that we are concerned with here. It causes abortion of fetuses and if offspring are produced, they will often be weak and nonviable. The host animal will spread the disease to uninfected animals. In advanced stages, animals will have severe joint ills with deformities to joints and testes in males. Once an animal contracts brucellosis, it will remain in the animal's system until its death. In humans, the disease is called undulant fever or milk fever. Once it was often seen in the population from contact with diseased animals, eating undercooked meat or drinking raw milk. Since control programs started in 1934, very few cases are reported today. Humans exhibit a flu-like undulating fever with duration of a few days to several months at a time. Severe joint ills and almost always, major back problems can occur. It also causes abortion in the female and weak nonviable offspring. It is very debilitating. In humans heavy doses of strong antibiotics at each onset are now used to lessen the effect to some degree. I presently have an employee who contracted Brucellosis from our cows before they were depopulated. His health is of utmost concern to us.

A control and eradication program was started by the U.S. Gov. in 1934. Pasture of milk, vaccination of young animals, testing and destroying infected animals have all helped. The Fed. Gov. has spent somewhere near 1.5 billion tax dollars in the eradication program and the states have cooperated with approximately equal dollars along with incalculable loss to livestock and dairy producers complying with Fed. regs over the years. All but 13 states are now classed brucellosis free. They plan to be able to attain that free status within five years or so. WY has been classed free since 1985, but has had six out-breaks of brucellosis attributed to feral elk and/or buffalo since 1985. YNP, GINP, NRP and 22 winter feed grounds in Northwest WY have elk and buffalo heavily infected with brucellosis. Depending on whose figures you accept, 50 to 60% of the elk and buffalo test positive for the disease. There are in excess of 22,000 head of elk alone on the feed grounds. Conservative figures of the elk alone would put 11,000 disease-carrying animals on the loose at present. With the buffalo and non-migrating elk in YNP, this number increases dramatically. This huge reservoir of brucellosis in the Parks and Northwest WY are of tremendous concern and are the reason I am here today to testify. At one time both YNP and GINP were operating a successful brucellosis control program. Buffalo and some elk were tested, infected animals destroyed and young animals vaccinated. When the present nonmanagement (hands off) policy was adopted, the control program stopped and facilities to carry out the program were allowed to fall into disrepair and were later destroyed. Brucellosis has now spread through a high percentage of the Parks' animal population and is leaking out into surrounding areas. Brucellosis may be a factor in the slow recovery of the Grizzly bear due to the eating of diseased carcasses of ungulates in the Grizzly's range. Bald eagles are also known to get the disease from carrion.

Our ranch showed up with Brucellosis early in 1989. Our cattle were tested and reactors were found. The herd was quarantined as per Uniform Methods & Rules set down by fed. gov. regulations, USDA APHIS. Reactors were shipped to slaughter. Calves off these cows (1 day to 6 weeks old) were also shipped to slaughter as per gov. regulations. About 7,000 head of cattle that may have come in contact with our cows were tested a total of three times to make sure the disease had not spread to adjacent herds. On the second test for our cattle, more reactors were found. They along with their calves were shipped to slaughter. At this point, it appeared that we may be tied up under quarantine for from one to three years and may have to lose all our production cows due to close confinement and continued reinfection. We opted to move all the cattle to a quarantine feed lot in Idaho until the calves could be weaned and salvaged. All of the cows were to be slaughtered at weaning. All heifer calves and replacement heifer yearlings were to be sprayed; all male calves castrated. This in fact wiped out a reputation herd of cattle that we had developed through 23 years of intensive herd improvement practices resulting in exceptionally high productivity and heavy weaning weights. After an extensive investigation by USDA APHIS (Dr. Donald Bridgewater), a report was issued attributing the out-break in the Parker herd to elk and/or buffalo - both of which we had been exposed to in 1988. This was the first time buffalo had migrated into our summer range. We have, for several years, grazed with elk several months of the year. Elk in this area migrate all over N.W. WY. The buffalo were believed to have migrated from GINP but it is also possible they came from the Pelican herd in YNP. We feel the heavy financial loss and the loss of a fine herd of cattle are not the only ramifications. We feel our options as an operating ranch have been severely limited by the contamination of this disease and the continuing threat of recontamination if production cattle are reintroduced into the same environment. All of this difficulty could have been avoided! The National Park Service and the Federal Fish and Wildlife Service do not seem to think they have to be responsible for their actions or lack of action, regardless of what rules they violate or what damage ensues. It is high time that these agencies be held accountable for the damages that are caused by their policy and actions. From minutes of a recent meeting on Brucellosis, park representatives stated that they need specific direction from Congress to handle the growing problem of disease.

Disease control will be the hardest to accomplish now due to the fact that it is so wide spread. There is no need to control it in either elk or buffalo unless it is controlled in the other - due to cross-species contamination; but control may be the cheapest alternative in the long run. Some success, we are told, has been achieved with vaccination in the elk. So far, whole-herd vaccination of buffalo is not recommended by any brucellosis authority. Test and slaughter of older animals and vaccination of the young may be necessary. Total depopulation and reintroduction of clean animals may also be an alternative. Overpopulation and migration of animals may have to be controlled by the removal for slaughter of excess animals; direct reduction of numbers by park personnel and/or controlled harvest by the public which is done in several national parks at present. If none of these methods are acceptable, then the Parks should be fenced in such a manner as to prevent a migration and the spread of diseased animals. Regardless of what action the Parks finally take, they will always have boundaries to contend with. Continued disregard of boundaries by migrating and diseased animals and the lack of positive action by the Natl. Parks and other gov. agencies will only lead to more confrontation with adjacent states, individuals and businesses.

Hopefully, the end result of these hearings will produce the direction needed. None asks more of the federal agencies than would be expected or demanded of an individual or business. These agencies should take responsibility for their actions and if those actions cause damage, then they should be held accountable. The continuing threat and contamination from Park animals can very easily cause adjacent states to lose their brucellosis free status with great loss to the states' economies and huge losses and hardships to livestock producers.

Thank you for your attention. I welcome any questions you might have.

Senator WALLOP. Dr. Johnson, do you generally accept the characterization of how those animals are likely to spread the disease throughout domestic herds?

Dr. JOHNSON. Yes, sir.

Senator WALLOP. And generally, it is accepted that this has potential severe affects on humans who may contact undulant fever?

Dr. JOHNSON. Yes. The infection as we have moved through the states, getting to the point where 28 of them are free, there has been a lot of questions about whether the other species, other than cattle, perpetuate the disease and spread it. We have done numerous surveys. We have found that, other than bison and elk, the infection in the other wild species will be eliminated and will disappear if you can remove the infection from the cattle.

We have not found that true for bison and elk. We have removed the infection from the surrounding livestock and infection perpetuates and continues in the bison and elk. We believe, at least, that probably the last three infected herds in Wyoming probably resulted from exposure either to bison or elk.

Senator WALLOP. Would it be feasible to begin a control program again within those herds, just from a scientific standpoint? I know the Park Service has reasons to think about the feasibility that are different from humans.

Dr. JOHNSON. We feel it is feasible. Several years ago, the domestic bison herds were brought under the regulatory control of uniform methods and rules, and to my knowledge all, except one, possibly one, domestically owned bison herd have now been freed of brucellosis. And there are numerous ones around the country, and numerous ones were infected at one time. As far as I know, all other publicly controlled bison are free of brucellosis to our knowledge.

Senator WALLOP. Thank you very much.

John, one last thing. Your statement says you were in the cow-calf business. It is now impossible for you to sustain?

Mr. STORY. We think that our options are limited, and at the present time we do not think it is feasible to take a good set of cows and go back into that same environment, and that really limits the whole potential of the ranch, because that is what we do, and that is what that area does best. It is not really set up for a yearling operation. Yearlings are bad neighbors.

Senator WALLOP. I know the country.

Mr. STORY. We would much rather be back in the cow-calf business.

Senator WALLOP. Mr. Morehead, did you hear that? There is one ranch among several's livelihoods and way of doing business that is completely affected by this policy of neglect by the Park Service.

Mr. STORY. We have also noticed a little bit of resistance of people that normally pasture in that country to come back in, because it has a stigma right now of brucellosis in the area.

Senator WALLOP. You would not get any of my cows in there.

The subcommittee stands in recess, and those who came with regards to the brucellosis bill may be excused, and we will be back as quickly as we can to finish the river and forest—[Recess.]

Senator WALLOP. With apologies for a schedule that is beyond my control a little bit, I would like to have Mr. Overbay's testimony.

STATEMENT OF JAMES C. OVERBAY, DEPUTY CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY DR. BILLY JOHNSON, ASSOCIATE DEPUTY DIRECTOR FOR VETERINARY SERVICES, ANIMAL AND PLANT HEALTH INSPECTION SERVICES

Mr. OVERBAY. I will try to be brief and summarize my remarks. I appreciate the opportunity to offer our views on the two bills, the legislation which would designate the Clarks Fork of the Yellowstone as a Wild and Scenic River, and then H.R. 2809, which provides for transfer of the Calaveras Bigtree National Forest in the State of California.

You have already heard that the Clarks Fork of the Yellowstone has been under consideration for a Wild and Scenic River designation for over 10 years, and back in 1982, President Reagan recommended to Congress that it be included in the National Wild and Scenic River System. The bill was introduced, but it was not enacted.

You have also heard that Clarks Fork has many unique and remarkable values, the scenery is outstanding. It offers a unique recreation experience because of its relatively undisturbed state and its opportunities for solitude. It also has historic significance as part of the route followed by Chief Joseph.

Our recommendation to Congress in 1982 was to designate 21.5 miles of the river. This bill would delete the lower one-half mile segment of the river, and two-tenths of a mile from the upper end. And we are in agreement with that change in the designation, and Governor Sullivan has already explained the reasons for that.

Most of the discussion earlier on the bill had to do with paragraph B, having to do with the water rights and establishing what appeared to be a Federal reserve right to protect the values of the river. Frankly, we would prefer that this section of the bill be deleted, and that we go ahead and do our planning, work very closely with the State of Wyoming and local citizens' groups, determine what the particular needs of that river are to maintain the wild characteristics of it, and then file under state law, as is the normal process.

Whatever Congress decides to do, we will work very closely with the state and its citizens to try to make that determination, and I think it is also very apparent that because of the land ownership patterns where the river is and the characteristics of that river, that most of that water is going to be available, regardless of what happens.

We also had some concerns with paragraph C, which states that projects located entirely downstream from the designated river would not be affected by this bill. We do not believe that the Wild and Scenic Rivers Act has any effect on those projects. We do not believe this paragraph is necessary.

We would also recommend that paragraph D be amended. We would like to substitute the words "reasonable measures" for where we have "all such measures," so that we can use some reason in determining what the appropriate control measures would be, if we had problems with fire, insects or disease.

Mr. Chairman, we fully support the designation of the Clarks Fork as a Wild and Scenic River. We think it is an excellent candidate. We recognize it would be Wyoming's first designated Wild and Scenic River, and we look forward in working with the committee as you debate this bill.

[The prepared statement of Mr. Overbay follows:]

STATEMENT OF
JAMES C. OVERBAY, DEPUTY CHIEF
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

Concerning
S. 2343, the "Clarks Fork Wild and Scenic River Designation Act of 1990"
and
H.R. 2809, regarding the transfer of the Calaveras Bigtree National Forest
to the State of California

May 10, 1990

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to offer our views on S. 2343, the "Clarks Fork Wild and Scenic River Designation Act of 1990" and H.R. 2809, regarding the transfer of the Calaveras Bigtree National Forest to the State of California.

S. 2343, REGARDING THE CLARKS FORK RIVER:

The Clarks Fork of the Yellowstone River has been under consideration for Wild and Scenic River designation for over 10 years. A congressionally authorized study was completed in 1979. In 1982, President Reagan recommended to Congress that a segment of the Clarks Fork be included in the National Wild and Scenic Rivers System. A bill was introduced but not enacted. No further action was taken by the Congress until S. 2343 was introduced. The Shoshone National Forest Land and Resource Management Plan also recommends the Clarks Fork for designation.

The Clarks Fork has many unique and remarkable values. The scenery is outstanding, including cascades, waterfalls, and magnificent canyon walls. It

offers a unique recreational experience because of its relatively undisturbed state and its opportunities for solitude. It has historic significance as part of the route followed by Chief Joseph and the Nez Perce Indians when they attempted to escape to Canada in 1877. The river is named after William Clark of the Lewis and Clark Expedition.

Our recommendation to Congress in 1982 was to designate 21.5 miles. S. 2343 would delete one-half mile from the lower end of the segment and .2 of a mile from the upper end. The segment that would be designated is 20.8 miles.

A reservoir is being considered at the mouth of the canyon and, if constructed, it would back water up into the lower canyon. Deleting the lower one-half mile would allow for the reservoir construction while not affecting the designation upstream. We believe this is a reasonable compromise. If the reservoir is not constructed, the one-half mile segment could be reconsidered for designation at some future time.

We believe that the existing land acquisition authorities of the Wild and Scenic Rivers Act would adequately protect uses of private property within the Clarks Fork river corridor. Furthermore, under existing law, condemnation authority would be available only for acquiring access or scenic easements. S. 2343 would eliminate this authority. While we have not used condemnation to enforce the provisions of the Wild and Scenic Rivers Act in over 10 years, we believe such authority should be retained to be used when negotiations fail and river values are seriously jeopardized--and always as a last resort. Without such authority, the Secretary cannot assure the protection of the river values. For this reason, we recommend that the Committee not make an exception

to the existing land acquisition authorities already in the Wild and Scenic Rivers Act.

We are unclear regarding the intent and the effect of paragraph (B), and recommend that it be deleted from the bill. From our reading, it appears that a specific Federal reserved water right would be established under paragraph (B) to protect the values of the river. The quantity of water reserved would be determined through an agreement between the Secretary and the Governor of Wyoming. The Secretary and the Governor would have 3 years within which to reach agreement. In the interim, the quantity of the reserved water would be 50 percent of the monthly natural flow.

Reaching an agreement on this issue may be difficult and time consuming. Three years is a realistic time frame for data collection and analysis. Conceivably, however, additional time could be required to negotiate an agreement. More importantly, it is unclear as to what happens if an agreement cannot be reached within the 3 year period, or at all. Would the "50-percent" provision be followed until an agreement was reached? What incentive would there be for the Governor to agree to that amount of water which the Secretary believes is the amount necessary to protect the river values, especially if the studies determine that an amount significantly larger than 50 percent is necessary? Mr. Chairman, we believe the current language inadvertently provides fertile grounds for prolonged disagreement regarding the quantity of water that should be reserved.

The Wild and Scenic Rivers Act requires the Secretary to develop a river management plan for each designated river. In doing so, we would consult with the State, other agencies, and interest groups. The plan would explore

alternative management scenarios, and analyze the effects of each reasonable alternative. In the case of the Clarks Fork, it is conceivable that different alternatives would necessitate different amounts of reserved water. Section 13 of the Wild and Scenic Rivers Act currently provides authority for the assertion of Federal reserved water rights to protect designated rivers. Upon finalizing the management plan, the Secretary would file with the State for a reserved right to the volume of water and flow regime required to maintain the resource values of the river corridor.

The Wyoming Game and Fish Department presently has a reserved right for a minimum flow of 200 cubic feet per second for the lower 5 miles of the river below Sunlight Falls. We believe this flow level is adequate to maintain the fishery and aquatic values. Higher flows, however, are necessary to maintain the scenic values of the river--particularly the waterfalls--and to facilitate the natural flushing action of the river during spring runoff. Furthermore, any protection provided by this state law reserved right may be temporary, since it is to be reviewed by December 31, 1998, by the State to determine if it should be continued.

Further data collection and analysis will be necessary to determine what flow regime may be necessary to maintain the present high quality of water and to provide the flows needed to transport sediment and natural debris through this reach of river. This flow regime could prove to be that needed to fulfill the purposes of the Act. Our preliminary studies indicate that the 50 percent of monthly flow that would be prescribed by paragraph (B) would be inadequate as a long-term minimum flow requirement. Furthermore, the necessary flow regime may be far more complex than a simple, arbitrary percentage of average flow.

For all these reasons, we prefer to pursue whatever water rights that may prove necessary under existing State water allocation law. Accordingly, we recommend that paragraph (B) be deleted from S. 2343.

If the Committee determines that paragraph (B) contains the provisions necessary to resolve the complex questions associated with this issue, we strongly recommend that it be amended to eliminate the uncertainty regarding what might happen in the case of delay or failure in reaching an agreement.

We recommend that paragraph (C) be deleted. Projects located entirely downstream from a designated river would not be affected by the provisions of the Wild and Scenic Rivers Act.

We are concerned that paragraph (D) as presently written would require the use of inappropriate control measures for fire, insects, and diseases. We recommend that "reasonable measures" be substituted for "all such measures" in line 23 on page 4 and that "fully" be deleted in line 24.

Mr. Chairman, the Clarks Fork of the Yellowstone is an excellent candidate for Wyoming's first designated National Wild and Scenic River. We look forward to working with the Committee and the Wyoming delegation to resolve our concerns about some aspects of S. 2343.

H.R. 2809, REGARDING THE CALAVERAS BIGTREE NATIONAL FOREST:

The Calaveras Bigtree National Forest was established in 1909 to acquire and "permanently hold" specified lands in order to "prolong the existence, growth, and promote the reproduction" of giant sequoia. Two designated areas totalling 3,500 acres were authorized for acquisition. The Forest Service acquired

379 acres in 1953 through a land-for-timber exchange. The State of California has, for similar purposes, acquired several thousand acres in the area, including most of the lands authorized for the National Forest. The resulting land ownership pattern consists of a 379-acre National Forest surrounded by a much larger State park.

H.R. 2809, as passed by the House, would authorize and direct the Secretary of Agriculture to transfer lands within the Calaveras Bigtree National Forest to the State of California in exchange for lands in California and other consideration of approximately equal value. The transfer would not take place unless the Secretary and the State reached agreement on terms and conditions within 2 years of enactment.

The transfer would bring the area under the jurisdiction of a single unit of government. Our draft Land and Resource Management Plan recommends an exchange to the State. Also, a reduction of 7 miles of property boundary and 50 property corners would save about \$40,000 over the next 5 years.

Mr. Chairman, we support enactment of H.R. 2809 as passed by the House, and we are actively working with the State of California to identify suitable State lands and other consideration that could be exchanged for Calaveras. We expect to quickly reach agreement if H.R. 2809 is enacted.

This concludes my testimony. I would be pleased to answer any questions you may have.

Senator Wallop: Thank you. In your statement you say that the existing land acquisition authorities of the Wild and Scenic River Act would adequately protect uses of private property within the Clarks Fork corridor. And you further say that under existing law, condemnation authority would be available only for acquiring access or easements. It is my understanding that under existing law, the Secretary is authorized to acquire lands and interest in lands within the boundaries of the Wild and Scenic River, with the only pertinent exception being that he could not acquire fee title to an average of more than 100 acres per mile on both sides of the river.

Mr. OVERBAY. Mr. Chairman, our experience with the authorities under that is that we very seldom exercise that. It is only when we have a designated wild river and we see a particular use change that really threatens that character that we want to have some authority to go ahead and act on that, and our authorities that we normally exercise only have to do with acquired access or scenic easements.

Senator WALLOP. Looking at it from the standpoint of someone who does not wear a Forest Service hat, but who perhaps had a piece of property along there, would you feel comfortable in figuring that as a way by which the Federal Government protected the use of private property?

Mr. OVERBAY. It would depend on the use of that property.

Senator WALLOP. I am not talking about the Forest Service. I am talking about you. If you owned a piece of property, would you think that that power of condemnation protected the use of private property, as your statement says?

Mr. OVERBAY. No. It would limit your opportunities. There is no question of that.

Senator WALLOP. That is why it is there. We are willing to work on something that protects the character, but I think you will find that—the Flaherty testimony is that they are willing to work on something like that and get the easements. They will probably take better care of it than the Forest Service would, because that is why—

Mr. OVERBAY. I think the present owners have already demonstrated that that is no problem. The only potential problem would be if that changed ownership and somebody came in there with some entirely different purpose.

Senator WALLOP [continuing]. We cannot put halos around angels as well as on top of their heads, but there has got to be some time in the world when you just go to work for the people in circumstances that exist there, and set about protecting and finding your purposes to be served. The Congress is still going to exist. A number of other things are still going to exist if changes of ownership and other kinds of things take place, and you have not been able to get along. But I do not anticipate that, and there is absolutely no reason for you to anticipate it, given the experience that already lies on the land. You have got a three-year plan. There is no indication now, to my knowledge, that anybody is about to sell that property, nor is there any indication that there is any economic need within that family to sell that property, so why would it

not just be part of the routine thing that you would settle up on just as quickly as you get the designation?

Mr. OVERBAY. Well, it is up to you, and your judgment on that. As I have said, the existing authorities we feel do give us that opportunity if something does come in to threaten the wild character of the river.

Senator WALLOP. On page 3 of your statement you state that you are "unclear regarding the intent and effect of Paragraph B. However, let me point out that in the last three sentences of that paragraph of your statement you go on to succinctly sum up the water provisions as though it is every bit as straightforward as it reads.

Mr. OVERBAY. I think the wording of the beginning of that paragraph probably was not quite appropriate. I think it is fairly clear what the intent is there. The major concern if that is included in the bill is, if we do, or are unable to reach agreement with the Governor during that three-year period, what happens then? If there can be some agreement, it would be helpful to have it clarified.

Senator WALLOP. I mean, the thing which is unclear to me is where the statement of panic arises from. There is no significant diversion above it. There is sufficient end-strength flow right down below it to draw more than the water that is set aside.

There has been already a history of close and easy cooperation between the State and the Forest Service, and there is no plan by anybody to affect it right now,—nothing on the drawing board, no engineering possibility, no likelihood of anything coming along, no economic feasibility to anything.

It just seems to me a bit short of paranoid to think that in those kinds of circumstances you would not be able to work out something that would be satisfactory both for the State of Wyoming and the Forest Service, and it really seems a little bit strange to me that given the experience that you have had there already that you would assume bad faith on the part of the government of Wyoming in negotiations.

Mr. OVERBAY. I do not assume that. I assume we will work out an agreement.

Senator WALLOP. Thank you. That is probably as far as I dare go on that one.

You state also that you would prefer to pursue whatever water rights may prove necessary under existing State water allocation law. Does that imply that you are willing to apply for State water rights as all other water users, rather than preempting State law?

Mr. OVERBAY. We prefer to work within State law, in first off trying to determine what that need would be and then applying under State law for that water right, and that has worked for us in other cases.

Senator WALLOP. Let me suggest to you then, we can probably work out something that inserts that kind of language but still does not give to the courts the last say in that. Because you have heard the Governor. He would rather have no bill than to—

Mr. OVERBAY. Well, that would be unfortunate.

Senator WALLOP [continuing]. It would be, and it is also unnecessary. Those who are opposing it for that language I would suggest are more interested in their power than the protection of one of the really great rivers. I do not see that in any way precedential to

anything else. Each one of these bills has some kind of a precedent. Every single one of them has. There are private properties of one dimension or another, there are public access points and crossings of one kind or another.

Each one of them has something about it that is slightly different in character than the others, and it seems to me that it has been the case and it ought to remain the case that each of these become—that they stand on their own merits for the purposes of protection, and that our fundamental purpose ought to be ultimately the protection of the river and not somebody's say, ultimately, down there.

Let me just also suggest, one of the reasons that the provision which you object to about the downstream project is in there is because the act is silent on it and other kinds of protective land use designations have been used to affect downstream uses. They have a national park system, they have wilderness areas, they have wildlife areas, and it is for that reason.

The State has very little room there, as you well know, between the ending of the designation and the State line, and one of the reasons why it was moved up slightly is just in case there is an attempt, or at some moment in time a necessity, a utilization economically for that water. They want to be able to do it without having somebody saying—well, I mean the very view of this thing—

Mr. OVERBAY. I am not aware that has been a problem for us in any of the other scenic regions.

Senator WALLOP. It has been a problem in restrictive land use designations. We had a problem in the Grand Tetons for a little while, and people were upset because the beacon from the airport shined on the Grand while they were climbing it at dusk. They tried to stop that. It did not, of course, happen.

But we have seen a variety of things—timbering, for example, within sight of national parks. You yourself have experienced that. It is just a protection for the State that it gets to use that water should it take place. I do not see it as threatening. I do not see it as particularly precedent-setting.

Once again, my apologies. I will be back just as quickly as I have been the last. So far as I am concerned, that would conclude your testimony. Oh, you have the other bill yet, do you not?

Mr. OVERBAY. Well, I could just be very, very brief on that.

Senator WALLOP. Please do that, yes. I am sorry.

Mr. OVERBAY. We testified on this bill in the House. We suggested some amendments to it, which the House went ahead and added to it, so we are in full support of this bill. It transfers a very small national forest, our very smallest—379 acres—to the State of California. The State of California will reimburse us for that, and we are ready to move ahead on that.

Senator WALLOP. Again, thank you. My apologies to the rest of you, but this is slightly beyond my control.

(Recess.)

Senator WALLOP. With apologies—and you are patient, there were two votes and not one. Mr. Coyle, did you have an airplane—or was it Mr. Winsor?

Mr. WINSOR. I had one, but I have got a later one, or maybe tomorrow. That is fine with me.

Senator WALLOP. I apologize for that one. Let me proceed in the order in which you appear. Mr. Coyle.

STATEMENT OF KEVIN J. COYLE, ACTING PRESIDENT, AMERICAN RIVERS, INC., ACCOMPANIED BY DEBBIE SEASE, WASHINGTON DIRECTOR FOR PUBLIC LAND PROGRAMS, SIERRA CLUB

Mr. COYLE. My name is Kevin Coyle. I work as the Conservation Director at American Rivers. I am accompanied by Debbie Sease from the Sierra Club. I will be giving a statement and Debbie is here with me to answer any questions you may have.

First of all, we want to thank you for introducing legislation to protect the Clarks Fork. As you know, it is a very deserving river, a wonderful opportunity for the State of Wyoming, as there are no designated Wild and Scenic Rivers in Wyoming and we want to acknowledge your efforts here and the efforts that you made to try to protect this river.

There are a few things to make clear. I felt a little bit in our earlier testimony that there was a little bit of shadow boxing going on. Basically, we are really not opposed to the State having the ability to capture water under the interstate compact, nor are we opposed to the State having a very strong role in the quantification of the Federal reserved water right that is provided for under the Wild and Scenic Rivers Act.

Our main difference is the approach on how that water right is determined, and what I would suggest—and I had a chance to talk a little bit just now with your staff about this—is that, as you know the 1952 McCarran Amendment provides for a procedure through adjudication where the State—it is a State proceeding. The State has a leadership role, and there is a great deal of deference traditionally provided for by the Federal Government to the State in that kind of setting.

Your staff pointed out that that may be a difficult thing because of the amount of work in a general adjudication, and perhaps there is some variation on that that could be established. Basically our request to you is to let that process rest. Let that be the process by which the Federal water right is determined. We believe in a joint determination.

There are a number of technical issues that we have raised, issues of language. Earlier, for example, the fact that the water right would be established from within the segment, the water arising within the segment, was a concern and I understand that that was not intentional. We would like to work with you very much on figuring out whether alternative language could be established that would protect the State's rights, establish a good water right allocation for the Clark's Fork and preserve, of course, the Federal reserved water right. So that is the basic testimony about that.

A point that was made earlier about land acquisition along the river is that while we really do not condone the condemnation of land along wild and Scenic River corridors, as you know 50 percent of the corridor is already in public ownership. There can be no fee

condemnation, so no one ever gets relocated. That is a point I think that needed to be stressed a little bit.

The second is that we concur with the Forest Service that as a rule the Forest Service does not do any condemnation. There are, however, those rare situations—and I want to underline the word “rare”—where the Forest Service or some other Federal agency may need to step in and at least take an easement on a piece of property. So those are our basic thoughts about your bill, and with that we are available to answer any questions you may have.

[The prepared statement of Mr. Cole follows:]



Testimony of Kevin J. Coyle

Acting President

American Rivers, Inc.

on S. 2343

Before the Senate Subcommittee on
Public Lands, National Parks and Forests

Thank you, Mr. Chairman. My name is Kevin J. Coyle, and I am Acting President of American Rivers, Inc. the only national organization devoted entirely to the preservation of free-flowing rivers and their surrounding lands. My testimony today is also being offered on behalf of the Sierra Club.

Mr. Chairman, we support the inclusion of the Clarks Fork in Wyoming in the National Wild and Scenic Rivers System. Certainly the Clarks Fork is one of the wildest and most deserving river segments in the contiguous 48 states. We are, however, unable to support S. 2343 in its current form. Our concerns are as follows:

First, Section 2 of the bill contains language limiting land acquisition only to consenting sellers. We do not condone the thoughtless use of condemnation of land in Wild and Scenic River corridors, but we believe that the current language of the Act itself, which prevents condemnation of fee interests in land for river segments that are more than 50 percent in public ownership, is adequate to protect landowners rights. There may be a rare situation in which the taking of an easement may be the only way to protect the values of the river and we believe the legislation should provide for that unusual possibility.

Second, the choice of language in this bill raises serious new problems on issues regarding federal reserved water rights that

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conservation groups have worked hard to clarify and standardize. While section 2(b) expressly reserves a federal water right for the Clarks Fork, it changes the way in which the right will be quantified, significantly narrows the purposes for which the water is reserved and offers less protection than such rights usually provide. We believe that this language is a major departure from the standard set by the Wild and Scenic Rivers Act for all other rivers in the system in that it leaves the river vulnerable to depletion of significant quantities of water through upstream diversions. This violates the integrity of the Wild and Scenic Rivers Act.

Mr. Chairman, I have attached to my testimony a detailed eight-point critique of the language in this bill. We believe this special water rights language is not necessary because there is already a well-established process which protects the legitimate interests of the state in allocating and administering its water resources. This same process also protects the national interest in assuring sufficient water to fulfill the purposes of Wild and Scenic River designation.

Thank you Mr. Chairman. We will be pleased to respond to any questions you may have.

Critique of Water Provisions in the Clark's Fork bill:

The language used to create an express reservation of water for the Clark's Fork Wild River does not accurately state the law of federal reserved water rights, as that law has been defined by the courts and by recent acts of Congress. In fact, the choice of words in the Clark's Fork bill raises serious new problems on issues that conservation groups have worked hard to clarify and standardize.

(1) § 2(B)(ii) calls for a joint determination by the Secretary and the State of Wyoming to establish the quantity of the federal water right. This would give the State a virtual veto over the degree of protection this federal wild river will receive. The federal government would be abdicating its jurisdiction and responsibility to protect the resource. Furthermore, a joint determination is not necessary because there is an accepted methodology for quantifying federal reserved water rights. Under the McCarran Amendment's waiver of sovereign immunity the federal agency can be joined in a state's general stream adjudication to quantify its federal water rights. This process protects both the state and federal interests. It is a process that has been applied in numerous instances, and it has withstood the test of time.

(2) § 2(B)(iv) reserves, and quantifies at 50% of the monthly natural flow, a federal water right pending finalization of the joint determination required in § 2(B)(ii). This arbitrary "interim" quantification is flawed for a number of reasons:

a) An interim quantification is not necessary to protect water development options, since there is sufficient opportunity to capture all of the water downstream of the designated segment. The federal water right would have no impact on downstream development. Furthermore, § 2(C) of the bill guarantees that designation of the river will not interfere with any water developments located downstream of the segment. The only water project that could be affected by the federal reserved right, regardless of its quantification, would be one that was upstream of the designated segment.

b) The 50% interim quantification leaves the door open for upstream water impoundment. Conservationists are opposed to any upstream diversions as they would directly and adversely impact the designated segment of the Clarks Fork.

c) There is not currently sufficient data to determine how much of the natural flow will be needed, however, the 50% quantification falls far short of the Forest Service's early estimates for an adequate flow.

d) The setting of a 50% interim flow appears to be an attempt to influence the final quantification prior to the joint resolution, and in effect does so, because if the agency and the state cannot agree, the 50% amount remains in place until they do, or until Congress acts.

(3) The bill uses the term "appurtenant" water with no apparent purpose of context for doing so. (See § 2 (B) (ii) and (iv).) Prior legislation (a.g., the Cache la Poudre Wild and Scenic River Act; the San Pedro National Riparian Conservation Act) has followed established concepts of federal water law by expressly reserving simply the water necessary to fulfill the purposes of the designations. Use of the term "appurtenant", without factual basis for such a distinction, and without a specific definition in the statute of legislative history, explaining its significance for the Clark's Fork, raises needless questions and potential arguments about Congress' actual intent.

(4) The bill also uses the term "unappropriated" for the first time in federal legislation. (See § 2 (B) (ii) and (iv).) The use of this term is ill-advised because it needlessly creates an issue over the scope and nature of the right that Congress has just expressly created. Use of the term "unappropriated" could be argued by opponents of a reserved right to signal Congress' intent to prohibit the Forest Service from obtaining a junior water right on the Clark's Fork. This has never been the case and should not be so now. If the facts proven in an adjudication proceeding show that the Clark's Fork is fully appropriated, for example in the sense that the water in the river is subject to senior downstream calls, the Forest Service would still be entitled to -- and well-advised, if not obligated, to -- obtain a junior water right for flows through the wild river segment. The bill's first-time use of the term "unappropriated" suggests a contrary argument. The bill's sponsors might argue that the term "unappropriated" is needed to prevent "takings" of existing water rights, but this concern is groundless, inasmuch as the bill establishes that the rights created thereby shall have a priority date of the enactment of the legislation. § 2 (b) (ii).

(5) The bill also uses the phrase "expressly reserves from ... water in the river segment..." § 2 (b) (ii). Read literally, this phrasing means that Congress is only creating a right to waters which arise in the segment (i.e., water from springs, tributaries, sideslope accretion and precipitation). Under such a narrow, literal reading, the Forest Service would have no call on waters upstream in the channel. The proper way to create a reserved right to protect the segment is, as Congress has previously done, by simply reserving "such water as is necessary to fulfill the purposes" of the wild river designation.

(6) The language in § 2 (B) (i) of the bill effectively narrows the purposes for which water is reserved in the Clark's Fork from the broad statement in the Act ("outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, of other similar values," 16 U.S.C. § 1271) to merely the "scenic, recreational and historic values" set out in § 2 (B) (ii). This may result in a lesser quantity of water being reserved than if § 2 (b) tracked the language of the Wild and Scenic Rivers Act.

(7) The bill also deviates from the Wild and Scenic Rivers Act by providing in § 2 (B) (ii) that "the [reserved] water shall be administered by the State of Wyoming." The Act provides that "the jurisdiction of the States over waters of any stream included in a national wild ... river area shall be unaffected by this chapter to the extent that such jurisdiction may be exercised without impairing the purposes of this chapter or its administration," 16 U.S.C. § 1284 (d), and that "The jurisdiction of the States and the United States over waters of any stream included in a national wild ... river area shall be determined by established principles of law." 16 U.S.C. § 1284 (b). The intent and effect of § 2 (B) (ii) is not clear, but it definitely retreats from the provisions of the Wild and Scenic Rivers Act.

(8) Subsection 2 (B) (v) states that "Designation of the segment as a wild river ... shall not interfere with the exercise of, and State administration over, existing water rights." This language goes unnecessarily beyond customary savings clauses. It suggests that Congress is taking away with its right hand the effect of the reserved right it has created with its left. That is, the reserved rights will, by definition, have some effect on existing water rights, if, for example, an existing consumptive right holder downstream from the wild segment attempted to move its point of diversion upstream of the segment. The junior reserved right could block such a movement. This is the purpose of a reserved right: to protect the designated segment. Subsection 2 (B) (v), while unclear, could be argued to nullify that protection.

Senator WALLOP. Thank you very much. John?

STATEMENT OF JOHN B. WINSOR, CODY, WY

Mr. WINSOR. Thank you very much. I live 68 miles northwest of Cody on the Clarks Fork River, about 5 or 6 miles upstream from where it is going to start. I am a proud resident of the great State of Wyoming as of 1985, moving there in 1983. I am a snowbird and spend 3 months in Boulder, Colorado, when it gets 20 below up in our valley.

I represent myself as a landowner and my kids and my grandkids, and I am representing some neighboring ranchers up our way, and LaMar Empey, who I believe you know, Mr. Chairman, is Chairman of Yellowstone Clarks Fork Coalition, gave me testimony which I would like entered for the record.

Senator WALLOP. It will be.

Mr. WINSOR. You should also know I am on the board of the Greater Yellowstone Coalition.

Senator Wallop, I would like to thank you very much in 1983, when you and the rest of the Wyoming delegation put the first Wild and Scenic legislation on hold, because it gave the State and the Water Development Board seven years to study how to preserve Wyoming's precious asset, the water. Now, 7 years later, we know for a fact we can capture 100 percent of that, of the entire Yellowstone compact amount, at the dam that we can build down below the wild and scenic stretch.

There have been five other studies that I could find from 1905 through 1957 that all state that Upper Basin dams would not be technically feasible—would be technically feasible but not financially feasible. Not to mention they would flood out seven ranches and turn Wyoming's second most spectacular view, the Pilot Peak Vista, into a mudflat.

I believe we share a common goal, and that is to protect the Clarks Fork, and since it is now proven that Wyoming can capture 100 percent of its water in the downstream dam site, our goal is also to prevent Upper Basin dams, and I think that is the whole grassroots fear that is operative here on the Wild and Scenic thrust.

My only major concern with the elements of the proposed language is that if State and Federal representatives do not agree on the amount of water necessary to protect that river, 50 percent becomes law, and that in fact would permit upstream dams.

There is also one new factor that I have not heard anybody talk about that mandates full flushing through the canyon, and that is since the Yellowstone fires of 1988. I have watched that whole area. That land has gotten unstable, and we have had increased siltation and erosion in the river. As a matter of fact, Jim O'Toole, your staff member, and I spent a day looking at the blowout in Lodgepole Creek that sent tons of debris and material into Crandall and then into the Clarks Fork.

It is happening almost every time that we have a heavy rain. Hunter Peak is sloughing off and putting a lot of silt—I am told by hydrologists that they are predicting that it will take 40 to 50 years of full flushing flows to keep the silt and the sediment from build-

ing up, and that is new information for me, and I thought you would like to have it.

I know there is a lot of concern and conflicting views regarding the issues of State rights and precedent-setting Wild and Scenic language, and I am sure not qualified to discuss these issues. I am, and I can tell you that the vast majority of people in Cody and Powell would like to see, like you, that river protected. They do not want to see mudflats, wires, miles and miles of big steel tubing, going down the Chief Joseph Scenic Highway, which is now Wyoming's newest tourist attraction. They do not want to see their hunting and fishing opportunities ruined.

So I guess I would echo what Governor Sullivan said a little bit earlier, that if the Clarks Fork cannot be protected and the threat of the upstream dams eliminated, then it might be wise for us to consider delaying this legislation one more time. On the other hand, I would certainly hope that in your wisdom and leadership and with the help of the Committee, we could find a way to modify the bill's language to truly protect the river and eliminate the threat of those upstream dams.

I think naming the Clarks Fork a Wild and Scenic River would be just a wonderful centennial birthday present for the State and for the people of the State and for the people of the Nation, and of course for those who follow us, and I sincerely appreciate your patience today.

Thank you.

[The prepared statement of Mr. Winsor and Mr. Empey follows:]

TESTIMONY

RE: Designation of the Clarks Fork River in the State of
Wyoming as a component of the National Wild and Scenic
River System.

John B. Winsor and LaMar T. Empey

Yellowstone Clarks Fork Coalition

Cody, Wyoming

The Clarks Fork of the Yellowstone was first nominated for inclusion in the Nation's Wild and Scenic River System, in 1982. This nomination, however, was not endorsed by Wyoming's Congressional Delegation. It held, instead, that, until the Governor could determine the best course of action for Wyoming, legislation was premature.

This action notwithstanding, there were few people in the State willing to argue that the Clarks Fork was anything but a unique treasure. It originates in wide meadows and cool forests and, then, plunges for miles through a 1200 foot chasm characterized by incredible vistas, deep pools and leaping waterfalls. So narrow are the canyon's walls, in places, that only world-class kayakers can traverse them.

Equally important, the Clarks Fork is habitat for mountain goats, the rare Yellowstone Cutthroat Trout, the grizzly, and the Perigrine Falcon, as well as deer, elk, bighorn sheep and moose. Yet, opposition to federal protection was based upon the assumption that such protection would forever endanger Wyoming's right to develop its own precious water.

It took years for those of us working on the local level to overcome these fears. By 1988, however, federal designation had been endorsed, not merely by local landowners, conservation groups and such local organizations as the Cody Chamber of Commerce, the Park County Commissioners, the League of Women Voters, the

Cody Enterprise and the Casper Star-Tribune but by Wyoming's Governor, Mike Sullivan. Even a last-ditch effort by the Wyoming legislature to declare the Clarks Fork a State, rather than federal, Wild and Scenic River was beaten down.

The negotiated formula that made all this possible was simple: (1) all existing water rights above the proposed segment, plus some additional water for future contingencies, would be honored; (2) all remaining water would flow through the Clarks Fork Canyon, as it has for millenia; and (3) a large reservoir, below the protected segment, could be built, if ever needed. Indeed, to make this possible, the Forest Service agreed to shorten the length of the protected segment from 21.5 to 20.5 miles.

All the elements of this simple formula are now included in the Bill before you. However, there are two additional provisions which not only complicate that formula but which have created considerable controversy: (1) the provision that requires a joint state-federal determination of the appropriate flow for wild and scenic status; and (2) the inclusion of an interim flow of 50 per cent, pending joint state-federal determination.

Both provisions seem unnecessary, if not irrelevant. The quantity of water necessary to meet the criteria for a scenic river already flows through the canyon, after existing water rights are met. There is nothing over which to negotiate. Likewise,

a mandated interim flow of 50 per cent, to encourage negotiation between state and federal government, is, for the same reason, also irrelevant.

Any fears that upstream water rights will not be honored, or that the necessary flushing flow for a wild river will not be available, can be quickly allayed by a review of relevant facts.

Private lands above the proposed wild and scenic segment equal approximately 8,400 acres. State law, meanwhile, permits 1 cfs per 70 acres for irrigation. To irrigate the whole 8,400 acres, therefore, only 120 cfs are required.

Yet, during the months of May-August, when irrigation is greatest, the average flow in the Clarks Fork is 2,054 cfs, leaving 1,934 cfs to flow through the canyon. In other words, only about 6 per cent of the existing flow, during the months of peak use, is required to honor existing water rights, while over 90 per cent is free to meet scenic, recreational and historic criteria.

Given these facts, complicated negotiations are not required. An interim flow requirement is unneeded. No conflict between state and federal water rights is implied or inherent. No future precedents for wild and scenic legislation would be set. In short, with a few minor modifications to account for arrangements already worked out, the bill could be revised to meet the requirements of all interested parties. Even better, a national treasure would be preserved for our children.

STATEMENT OF DIANE BUGAS FLAHERTY, DAVIS, CA

Ms. FLAHERTY. Good afternoon. My name is Diane Flaherty. My sister, Pat Harris, and I own the only private property within the Clark's Fork Wild and Scenic River designation. We are here to support the clear statement of the bill that condemnation cannot be used to acquire an interest in our property. We thank you for the opportunity to be heard.

Our ranch consists of 136 acres straddling the river near the Crandall Ranger Station at the upstream-end of the designated area. It is remote and inaccessible by modern standards. Until very recently, the closest paved road was 20 miles away. The "driveway" is several miles of bumpy trail which abruptly descends fifteen hundred feet into the Canyon on a narrow switchback road. The switchback ends at the river and the main ranch sits just on the other side.

The ranch has always been called the Wright Place because it was homesteaded at the turn of the century by Fred Wright and his family. It once held the distinction of being the smallest school in the world, when the State was required to board a teacher there to tutor Fred Wright's only child.

The Wright Place is unique, and breathtakingly beautiful. It takes up the entire canyon floor along a 3/4 mile stretch of the Clarks Fork. The canyon opens just a few miles upstream, where the water cascades down out of the mountains, and then slows as the canyon widens. The river runs through our property and down several miles where the canyon walls close and the flow again quickens.

Despite its beauty, the Wright Place is not a showcase. It is a working cattle ranch. We grow hay, raise horses, and run several hundred head of cattle with the benefit of grazing permits in the Beartooth Range. Cows and calves are driven up into the mountains in the spring and down to the lower ranches in the fall. The property contains a large caretaker's residence, bunkhouses, barns and outbuildings.

Our father, John Bugas, was a Wyoming native who ran cattle in the Sunlight-Crandall area for over 40 years. He purchased the Wright Place because of its rugged beauty. My father was dedicated to the belief that the Wright Place and the surrounding area should remain as wild and isolated as when Fred Wright owned it.

He also recognized that preservation would be a constant struggle, that there would be an unrelenting pressure for access to the canyon from various quarters. He held steadfast to the belief, however, that the most effective way to protect the area was the most obvious: just leave it alone. He felt that the rugged terrain was at once the canyon's greatest appeal and its own natural defense against excessive intrusion by man. Accordingly, he would never permit the access roads to be improved or for a bridge to be built, and for much of his life the only way to get to the ranch was by a hand trolley strung across the river.

We believe that the Clarks Fork is in a condition to be considered for Wild and Scenic designation today because of my father's protective approach to this canyon. He felt that responsible private ownership offered the best protection for this unique spot, and that

any surrender of control to the Government would lead to its eventual deterioration.

Accordingly, our father fought earlier proposals to designate this area as Wild and Scenic out of a genuine concern that it would be the first step in a process which would ultimately transform the Clarks Fork into another Yellowstone. Because we share our father's concerns about official recognition of this area, our first inclination upon hearing of the latest proposal was to oppose it, as he had the earlier proposals. Over the last several months, however, we have been persuaded that the benefits of the designation may outweigh the risks.

Slap-dash development at the Upper Clarks Fork is an eyesore and a disgrace. The ever more powerful recreational and sportsmen's lobbies pose a threat to the few truly wild areas remaining in the State. Recognizing that times have changed and that the natural buffer against overuse may no longer be enough, my sister and I have decided not to oppose the Wild and Scenic designation.

Our decision is not made without reservations, but in reliance on assurances from the Governor's Office and the bill's congressional sponsors that the designation will preserve the wilderness without intruding on our rights as private landowners. We have been told that language in the bill prohibiting the acquisition of land or any interest in land without the owners' consent was included for our benefit and acts as an absolute bar to condemnation of our property. We have been further assured that this language will prohibit the taking of an easement through the property for access to the river or for any other purpose.

There is no route through the ranch which would avoid a direct view by the public into the buildings, nor is it possible to cross the property without coming into contact with our equipment or buildings and livestock. Any such intrusion would destroy the essence of our ownership of the Wright Place, but it is not just for personal reasons that we would refuse to grant an easement. Our property, because of its proximity to the road, offers the easiest access to the river for visitors arriving by car. We believe that an access easement through our property would invite overuse and irreparably change the character of the canyon.

The Clarks Fork Canyon retains much of its untamed nature because the topography prohibits easy access. Although there are four well-maintained trails into this segment of the river, the precipitous canyon walls keep out all but the most intrepid visitors, and this is as it should be.

The land adjacent to the river is narrow and in some places nonexistent. It simply cannot support a great increase in visitors without losing its wild and scenic character. For this reason, we not only refuse access through our property, but would like to express our reservations with the Forest Service's preferred alternative development of the Clarks Fork which calls for adding or improving trails and additional overlooks.

We believe that God made wonders like the Clarks Fork Canyon a little hard to reach so that those willing to work to get there would have something truly special to appreciate. Throughout the years of our family's ownership of the Wright Place we have worked with the Forest Service to protect this special place, and we

look forward to a continuation of this joint stewardship under the Wild and Scenic designation.

Thank you.

Senator WALLOP. You are welcome, Miss Flaherty, and thank you for your statement and also thank you for what you, your family and the Wrights have done to keep it that way.

I think it is important to understand that when the only private property on the segment has that kind of character, something useful has been going on or we would not be able to consider this river for that kind of designation and it deserves the respect that it has earned.

At some moment in time, would it be fair to assume that you might be willing to negotiate a scenic easement or some such document with the Forest Service to protect the character of the land as it exists—protect it from further development, et cetera?

Ms. FLAHERTY. Well, we would certainly be willing—we are open to discuss it. We would like to retain the right to say no, in case the language is not good; in case it really interferes and does not protect our privacy. I am sure you can understand, we do not want some agency or someone representing an agent just looking over our shoulder.

Senator WALLOP. Let me suggest to you, that as one who has negotiated such a thing on our ranch, you can negotiate such a thing that is entirely livable and that does serve the interest of protection.

Ms. FLAHERTY. Certainly we are open to that.

Senator WALLOP. Because the other side of that equation is that the Bugas and the Flahertys are not necessarily immortal, any more than the Wallops or others, and transfers of property ultimately can bring along a threat that was not intended by you, your current family or your heirs, but they may not be able to hold it.

Ms. FLAHERTY. That is right. We are in complete agreement with what the Forest Service would want—to keep the place scenic, as it is.

Senator WALLOP. In that case, it ought to be possible, I think, to negotiate some such agreement.

Mr. Coyle, your statement that river access condemnation or the use of condemnation is rare is true, but its rarity does not help you if you are the one condemned. I am trying to look at these things from the perspective of all the interested parties.

Congress continues to exist. That is one thing that is certain to be existing longer than families and other things. It may not be very comforting, but it is exactly true, and I think at least for me, I am willing to take the chance for the time being, especially in the three-year plan, that this can be worked out and should be, because the family has demonstrated great stewardship. I am not worried about them.

John, let me suggest that not everybody agrees entirely with you. We have—the Cody Chamber has sent us a resolution in support of the bill as introduced, and I will put that in the record.

[The resolution follows:]

The Man. The Town. The Legend.



CODY COUNTRY CHAMBER OF COMMERCE

CODY, WYOMING

RESOLUTION

WHEREAS, The Clarks Fork River in Park County, Wyoming is unique in all the world and a place of spectacular beauty and

WHEREAS, The 20.5 mile segment from the Crandall bridge to the lower reaches of the rugged canyon remains virtually unspoiled as it was when Chief Joseph and his band of brave Nez Perce Indians traversed the area in 1877 and

WHEREAS, Designation as part of the National Wild and Scenic River System would insure that the Clarks Fork canyon will be managed in such a way that its wild and primitive character remains for the use and enjoyment of future generations and

WHEREAS, By virtue of its rare and fragile beauty, the Clarks Fork ought to be Wyoming's first Wild and Scenic River,

THEREFORE, BE IT RESOLVED that the Cody Country Chamber of Commerce does endorse and support the bill introduced by Wyoming's congressional delegation in the Congress of the United States to accomplish this noble purpose.

Done in open meeting on the 9th day of April, 1990.

Robert Coe, President

CODY COUNTRY CHAMBER OF COMMERCE

836 SHERIDAN AVENUE • P.O. BOX 2777 • CODY, WYOMING 82414 • (307) 587-2297 • FAX (307) 587-5579

Senator WALLOP. Not to be argumentative, but to simply say what we are trying to do is not all that different. But I think you heard the Governor's testimony because I agree with what he has said.

The general adjudication process is going to take longer to provide the protection that you wish than the three-year planning process that is contained within the bill. I would say that there is no threat upstream. I do not know anybody who claims that there is at this moment in time. No plan, no engineering underway.

I mean, God knows, if they had been able to discover it in the last seven years, somebody would have. I mean, they have really really searched and looked, because there were some who just did not want, under any set of circumstances, to give up what ultimately might be a use for water, but they could not find any, and they had some of the most intricate water minds loose in Wyoming trying to figure out a way to suggest that there was a use up there that could be economically contemplated at this moment.

The downstream, both water rights and in-stream flow rights, rights already provide a magnet nearly sufficient to take care of anything that would be required by the river, even including flushing down. So I am not really so worried about that, and my purpose is, as your purpose is, I think, get to point B, which is the designation of it.

We will work and see if there is some other kind of language, but ultimately I have to tell you that we will either have a bill that protects Wyoming's right to be full partner in that process, or we will not have a bill. I mean you have heard the Governor. Politically it is a statement of reality, and I have got to tell you, I mean I do not feel threatened, or I would not have introduced it this way—we would have argued longer—just by the circumstances that exist in reality of today and so far as one can see for the next quarter of a century, and also any right that would be established by this three-year negotiation and adjudicated under State law would be senior to any upstream right that could exist anyway. So therefore, I mean, it behooves us to get to the point of adjudication and decision simply because that eliminates all potential threats and consequences.

I do want to spend a little time on your written statement, because I think it is important to get to the legal terms that were here. You objected to the use of the terms "pertinent" and "unappropriated" as though they were some new twist on Federal reserved rights.

Those are the terms specifically used in the lead case of *Kapart v. United States*, and have been consistently cited by the Supreme Court as well as by Judge Cane in Colorado on wilderness, and since that was the basis used by the Court, one can only assume you want some new standard, and I am not certain what the new standard would be. Are you suggesting that the Federal Government should somehow acquire rights already appropriated?

Mr. COYLE. No. This particular legal document was prepared jointly with the Sierra Club and the Sierra Club Legal Defense Fund, and Debbie Sease, who is here as my bodyguard, has decided that she will answer some of these questions so I will return it over to her.

Ms. SEASE. Thank you, Mr. Chairman. The use of the term "unappropriated" in this context may mean something different than it meant in, for example, the cases you referred to. It is conceivable that water that has been appropriated downstream is also appropriated for nonconsumptive use upstream. Our concern with this is not that we want to appropriate water that is already being used upstream, but that it creates confusion and perhaps needless confusion.

Senator WALLOP. I would suggest that it is in this instance, it is the Sierra Club that is confused both by the status of the rights that are appropriated and by the language in those cases.

Second, the courts have always used the term "pertinent" so one would have to assume that you may be contemplating some sort of assertion of non-pertinent water or some inter-basin transfer.

Ms. SEASE. No, sir. I think that our concerns on this stems from what does "pertinent" mean in this context. Is there a suggestion that hydrologically connected groundwater is not pertinent water? It is the lack of definition of the term that troubles us. If I understood Senator McClure's question earlier in the day, his reading of this gave rise to a concern that we might be creating a riparian right here. I believe that in an area as complicated as water law that if one says the minimum necessary one creates the least confusion.

Senator WALLOP. Would you be happy if we simply referred to the cases rather than used the words that are pertinent to them, to coin a phrase?

Ms. SEASE. I think it would be possible to use those terms in legislating an express right. One would just have to be more precise and provide the definition to allay our concerns.

Senator WALLOP. But one area which you do not seem to be paying heed to is that whatever right was appropriated under the terms and conditions of this bill would be senior to any right up above it that affected it, so in effect it carries its right to the top of the river. There are no rights above it now that would affect it, and so any right appropriated under here would be senior to any that might be granted upstream from it that would affect the right as it is appropriated here.

Ms. SEASE. We do not dispute that.

Senator WALLOP. If you do not dispute it, I do not understand why you worry about it.

Ms. SEASE. One interpretation of the language here where you have got "unappropriated" would be that since there is a full appropriation downstream call on the water that the Congress may have intended—and this is, of course, stretching it, that you said yourself courts sometimes stretch things—that there was no unappropriated water on this basin, therefore there is no appropriation here. I know that that is not your intention.

Senator WALLOP. That is not the case, and the law itself would prove that not to be the case. Simply, the water records of the State of Wyoming would prove that not to be the case. Whatever Congress may have intended on this thing it would not be able to usurp the general doctrine of appropriation.

Ms. SEASE. Senator, I think the two problems that you have raised here—the pertinent and the unappropriated—should be

things that could be easily worked out, because I think that we are in fact in agreement on the thrust and the direction we want to go, and we have concerns about potential definition and interpretation of these terms.

Senator WALLOP. Well, I have got to tell you that we are willing, within the confines of the Governor, which the Governor laid down and with which I and the delegation are in full agreement, to find some language that may satisfy it. It is my hope that you are willing to accept the good faith of the Governor in this thing, given the experience that the Forest Service has already had.

This would all not be the case had the Forest Service been able to make a determination on its own as to what it thought was an appropriate quantity of water. The State was willing to agree. We delayed—as you well know, John, we delayed over a year waiting for the Forest Service to tell us what would be appropriate, so it has not been the State of Wyoming that has been dragging its feet in here.

We would like to have it designated in our centennial year, but as the Governor said, we are willing to wait. We have waited 100 years. A couple more will not trouble it. Maybe that is the best thing to do, to wait until the Forest Service gets around to it and the State can agree or disagree or they can meet on it, but I think it is a shame. I really think it is a response to a threat that is non-existent, so it is my hope that we can find some way to work this out.

Mr. WINSOR. Mr. Chairman, I am certainly encouraged by your comments and your feelings that there will not be upper dams, and I take great comfort in that.

I hope that I do not come off as paranoid on this issue. The reason that I feel the way that I do is that the Water Development Commission during in-stream flow hearings, several of their representatives said there were absolutely no threats to upstream dams and yet when I wrote to the Water Development Commission and we received a letter from them on August 17, 1987, they delineated the three upstream dams by name and by range and township number with an accompanying map which says "map showing potential reservoir sites upstream basin dam sites," so there is some reason for my feeling.

Senator WALLOP. But John, in fairness, that predates the decision of both the Water Development Commission and the Government that those are economically unfeasible. That is the reason we are to the point now that the Governor felt comfortable in asking us to introduce this legislation.

So I do not deny that there are sites upon which dams could be built. I do deny that there is any way in which the water could be used, so I do not know—I do know about the Federal Government. I know there is no money around to build dams for which there is no use, and I am pretty sure the State has not got any such money.

But the more important thing is that, under the introduced bill, to get from Point A to Point B, to establish the quantification, which the Governor has said and the Water Development Commission has said and the legislature has said in their memorial to Congress, that they are quite willing to do, and that eliminates all the risk of your upstream dams.

I suppose we could postpone this for 25 years and you might find some new mystical way of transporting water that we do not know of now, but within three years all of that risk is entirely eliminated and nobody is going to be able to make the decision to build a dam, a hydro project or a moonscape in that period of time.

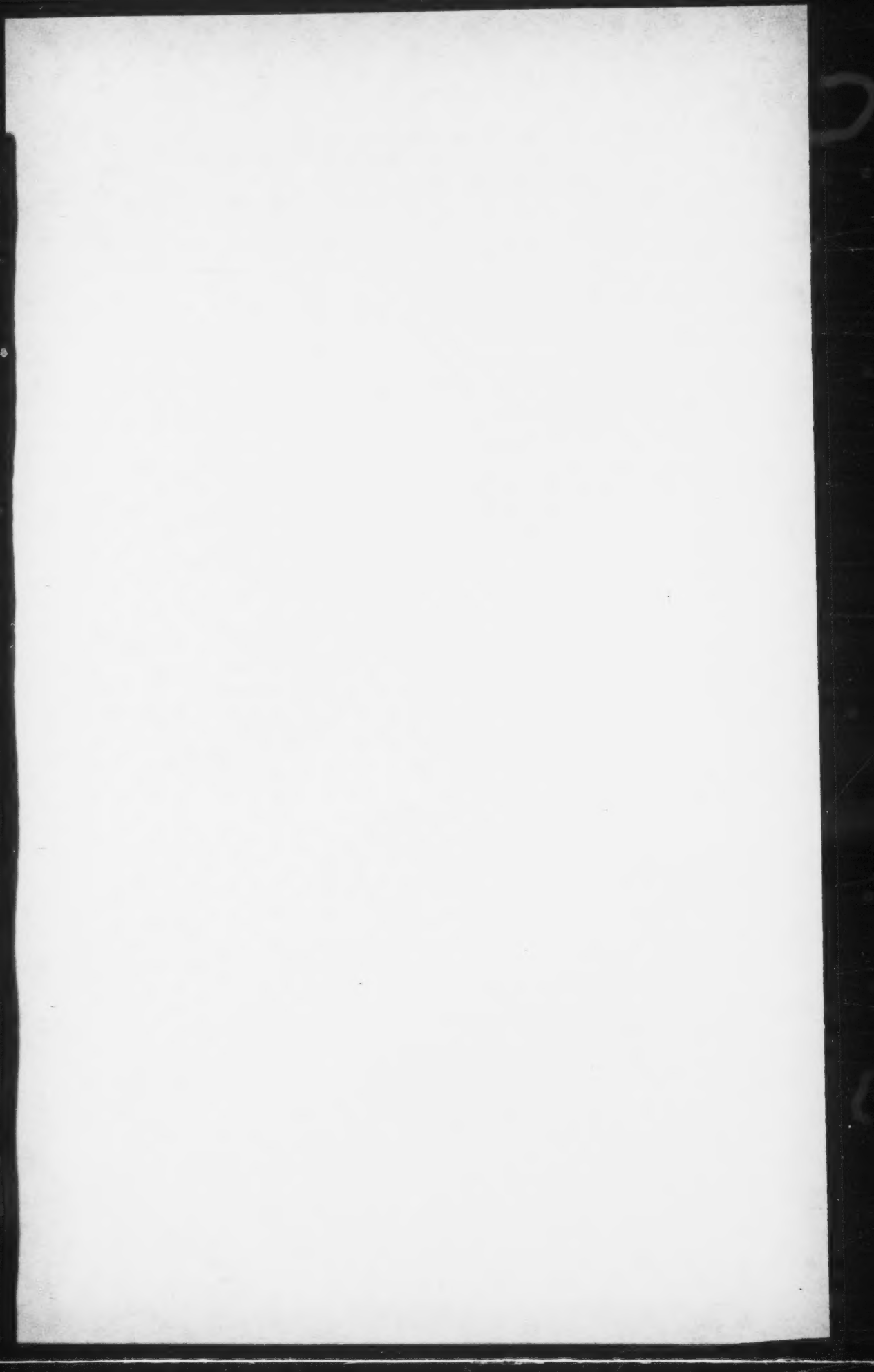
I could see it if the risk—you know, if there were some imminent kind of thing we would not be taking in anything like the same way, but no such thing exists and the goodwill and the desire of the State has been expressed in the legislature. Both parties agree. It has been expressed by the Governor, it has been expressed by the delegation, it has been expressed by the Forest Service. My guess is that we are terrified of something that is nonexistent.

At any rate, I appreciate your testimony, and it is my urgent and fervent hope that you see a way to help us get this thing passed in this year.

There will be the possibility of some questions, if members of the Committee would wish to submit them. Further testimony, as Senator Bumpers said in the beginning, can be received for two weeks after the hearing, and if there are questions I assume and hope that we could get responses to them promptly.

Thank you all very much. The Committee stands adjourned.

[Whereupon, at 5:05 p.m., the hearing adjourned.]



APPENDIXES

APPENDIX I

Responses to Additional Questions



United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127



IN REPLY REFER TO:

L58(180)

14 JUN 1990

Honorable Dale Bumpers
Chairman, Subcommittee on Public Lands,
National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

At the May 10, 1990, hearing on S. 1767, a bill to provide for the reimbursement of the State of Montana for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, we were asked to provide certain information to be included in the hearing record. Certain additional information was requested in your May 14 letter to Mr. John Morehead, Associate Director for Operations of the National Park Service. That information is as follows:

1. Estimated feral animal control costs:

Haleakala National Park, Hawaii - \$5,237,400 (FY80 - FY90)

Hawaii Volcanoes National Park, Hawaii - \$5,922,020 (FY72 - FY90)

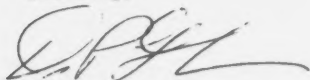
2. What is the extent of the brucellosis problem in Montana, Idaho, and Wyoming? How many cattle are infected?

This is a question that can be answered more completely by the U.S. Animal and Plant Health Inspection Service (APHIS), the agency of the Federal Government that tracks such information. The National Park Service relies on APHIS for this information. For example, last December APHIS told the NPS that Idaho was a Brucellosis Class A state with 17,000 cattle herds containing 1,570,000 head of cattle and calves, Montana a Brucellosis Class Free state with 15,700 cattle herds containing 2,350,000 head of cattle and calves, and Wyoming a Brucellosis Class Free state with 5,400 herds containing 1,290,000 head of cattle and calves. APHIS also reported that, at that time, no herd in any of these three states was quarantined because of brucellosis. In addition, APHIS also mentioned that, during the period from early 1960's through the late 1980's, seven cattle herds in the northwest part of Wyoming had been affected by brucellosis in circumstances where the most probable source was thought by APHIS to be feral elk and/or bison. One of these seven was the Parker herd, discovered in 1989. In preparing this response, we asked APHIS whether there have been any changes to this data since December and were told that the data remain essentially the same as reported to us in December.

3. An amendment has been introduced which would broaden the compensation within the bill to include Wyoming and would add compensation for economic loss. Have you seen this amendment, and if so, what are your views on it?

We have seen the amendment offered by Senators Wallop, Simpson, and Burns intended to broaden the coverage envisioned by S. 1767. We continue to oppose the bill, both as introduced and as proposed to be amended. As we indicated in our formal testimony on May 10, the problem of brucellosis is by no means confined to Yellowstone National Park nor is it confined to bison and elk. In addition, because of the presence of non-Federal feed grounds operated by State and private interests in Wyoming and by private interests in Montana, the spread of brucellosis is exacerbated by conditions beyond the control of the Federal Government, but clearly under the control, responsibility and liability of State government. At the hearing, testimony was presented by Mr. John Story of Dubois, Wyoming, that his herd grazes either with or near several thousands of buffalo and elk each year. He went on to state that in addition to Federal reservations in northwest Wyoming there are some 22 winter feed grounds for elk and buffalo in this area, and that 50 to 60 percent of the elk and buffalo on those feed grounds have tested positive for brucellosis. This is a major part of our objection to those who contend that the problem is a direct result of Yellowstone National Park bison and elk. We believe that the ultimate solution will be a combination of several strategies, including development of a more reliable vaccine with which to inoculate domestic cattle which can be controlled, coupled with a management strategy designed to keep cattle separate from free-roaming wildlife populations as much as may be possible, and a surveillance system to monitor for and test cattle that may accidentally become intermingled with wild bison and elk. We would envision such a combined program to be jointly funded by both Federal and State agencies as may be appropriate.

Sincerely,



REC James M. Ridenour
Director

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090



Reply To: 1510

Date: JUN 22 1990

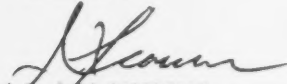
Honorable Dale Bumpers
Chairman, Subcommittee on Public Lands,
National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter dated May 14 with which you submitted several questions regarding S. 2343 and H.R. 2809. Our answers to these questions are enclosed.

If we can be of further assistance, please call.

Sincerely,


For: DALE ROBERTSON
Chief

Enclosures



Caring for the Land and Serving People

FS-4290-254(4/88)

FOREST SERVICE RESPONSE
TO
QUESTIONS REGARDING S. 2343

1. You state in your testimony that the 50% interim quantification provided for in this bill would not be adequate to protect the river corridor? Do you have an idea what quantification would be appropriate?

In a letter to the Governor of Wyoming on August 17, 1989, the Shoshone National Forest offered four alternative levels of instream flows for the Clarks Fork Canyon. Alternative D was marginal at about 57% of the total annual flow. Alternative C calculated the required instream flow at 70% to 80% of the natural flow. Alternatives A and B also provided adequate flows for instream requirements. Our best estimate at this time is that 70% to 80% of the natural flow is the minimum level necessary to adequately meet the instream requirements.

2. What water rights are currently reserved along this segment of the Clarks Fork?

Major tributaries of this segment of the Clarks Fork have been decreed for instream flows for various amounts in the 1983 Bighorn Interlocutory Decree. A segment of the Clarks Fork several miles above the starting point of the proposed Wild River segment was also decreed for instream flows at the same time. There are no water rights reserved along this segment of the Clarks Fork (the word "reserved" is not mentioned in the 1983 decree).

3. Have water rights been adjudicated on any of the rivers within the Wild and Scenic Rivers System? In those cases, have these adjudications been contentious or problematic?

To the best of our knowledge, the only adjudication case for instream flows for a Wild and Scenic River is the Cache la Poudre River in Colorado. This case is still in progress. Further detailed inquiry would be necessary to determine if flows have been adjudicated on other Wild and Scenic Rivers on National Forest lands. Where upstream flows are controlled by dams or diversions, the Forest Service has been able to negotiate minimum flow releases to maintain the Wild and Scenic River values.

4. Has the Forest Service ever done a taking of a water right for the purposes of a wild and scenic designation?

We have no knowledge of any water right condemnation for a Wild and Scenic River throughout the 21 year history of the Act.

5. You say in your testimony that "projects located entirely downstream from a designated river would not be affected by the provisions of the Wild and Scenic Rivers Act?" However, section 7(a) of the Act provides that only those developments which will "not invade the area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area" are not affected by the Act. Would you please comment on the apparent inconsistency?

In the case of the Clarks Fork, the potential downstream projects that we are aware of would not impact the Wild and Scenic River or the corridor area. Therefore, they are not affected or prohibited by the Act, and can proceed as planned.

6. What Federal water rights have been adjudicated in Wyoming?

During the 1980's, the State of Wyoming adjudicated the Bighorn basin, Water Division 3. All Federal reserved and appropriative water rights (BLM, FS, etc), including instream flows for Organic Act purposes, were adjudicated at that time.

7. What process was used?

The adjudication of Forest Service reserved and appropriative water rights, including instream flows for Organic Act purposes, was litigated for Wyoming Water Division 3 in Civil No. 4993, District Court for the Fifth Judicial District, State of Wyoming, Worland, Wyoming, starting early in 1977 when the United States was joined as a party pursuant to the McCarran Amendment.

8. Was there a timely resolution?

Yes, it took about 6 or 7 years to do the entire basin. A stipulated settlement with the State of Wyoming resulted in a Partial Interlocutory Decree, signed by Judge Harold Joffe on February 9, 1983.

9. Section (B)(iv) of the bill provides that the State of Wyoming will administer the water within the designation. Would this provision give the State exclusive authority over water within the corridor?

Administration of water rights is basically the responsibility of the States. Section 13(d) of the Wild and Scenic Rivers Act clarifies this point. Nothing in the Act shall affect the State's jurisdiction over waters of Wild and Scenic Rivers as long as it does not impair the purposes of the Act or its administration.

10. Would the reservation of only unappropriated water eliminate the federal government's ability to take a water right if necessary?

Yes, this could be interpreted as a conflict with Section 13(c) or (d) of the Act. However, in the case of the Clarks Fork, there is more than sufficient unappropriated water to meet the purposes of the Act.

11. How many other wild and scenic designations have prohibited condemnation?

There are no Wild and Scenic River designations that prohibit use of condemnation authority for purchase of scenic or access easements. Fee title acquisition of private lands is limited by the Wild and Scenic

Rivers Act, and has been further restricted to willing seller purchase in several river designations. The Wildcat River in New Hampshire is a recent example of this type of legislative stipulation.

12. How many acres has the Forest Service condemned along wild and scenic rivers corridors? On how many occasions has the Forest Service had to use condemnation?

From the time of designation, a total of 20,598 acres have been acquired in fee title by the Federal government, of which 656 acres were by condemnation. The rest of the acres acquired were willing seller arrangements for fee title purchase, exchange, or donation. The Eleven Point River in Missouri is the only river where the Forest Service has used fee title condemnation.

The Forest Service presently has 15,519 acres of Wild and Scenic River corridor private lands under scenic easements. Of the seven rivers where easements have been acquired, four involved condemnation, totaling 4,655 acres. In many of these cases the landowners agreed with the intent of the easements but used the courts to establish the price of the easements.

FOREST SERVICE RESPONSE
TO
QUESTIONS REGARDING H.R. 2809

1. The State of California is circulating a proposed amendment to the Calaveras bill which would limit the time frame for agreement on exchanged lands to 1 year and would allow the acceptance of cash payment in lieu of lands. Have you seen this amendment, and if so, what are your views on it?

Yes, we have reviewed the amendment being recommended by the State of California. We support the amendment, with one change. We recommend that the following be inserted in the fourth to last line of the State's draft after the phrase "cash payments" and before the comma: "to the United States, to be covered into a special Treasury account and made available until expended by the Secretary of Agriculture for the acquisition of replacement lands suitable for National Forest purposes within the State of California".

JOHN D. STORY

BOX 502
DUBOIS, WYOMING 82513

May 24, 1990

Senator Dale Bumpers
Chairman
Subcommittee on Public Lands,
National Parks and Forests
Committee on Energy
and Natural Resources
Washington, DC 20510-6150

RE: Questions submitted by Senator Malcom Wallop for John D. Story on S. 1767

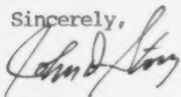
Dear Senator Bumpers,

Thank you for inviting me to testify on May 10, 1990 regarding S. 1767.

Enclosed please find my answers to the questions submitted by Senator Wallop and
as well as from USDA/APHIS.

If you or your committee need any further information, please feel free to
contact me.

Sincerely,



John D. Story

JDS/jw

Enclosure: 1

Questions by Senator Malcolm Wallop

for John Story

on S. 1767

1. You touched on previous successful brucellosis control programs in Yellowstone and Grand Teton National Parks which were replaced with a new hands off-style policy. Can you tell us anything about the proliferation of the disease since this aggressive eradication program ended?
2. You mentioned that the report issued for USDA/APHIS by Dr. Donald Bridgewater implicating the elk and/or bison in the brucellosis outbreak within you "closed" herd. How did he come to this conclusion?
3. Could you elaborate, with the help of Dr. Johnson, on the concept of control and eradication programs possibly being the cheapest alternative in the long run?
4. As a representative of the Wyoming ranching community, how do folks feel about this issue? Is it currently affecting you, and how might it affect you in the future?

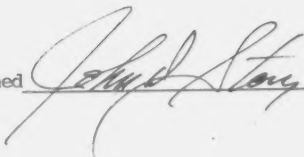
Answers by John D. Story
for Senator Malcolm Wallop
on S. 1767

1. Prior to the time of the "hands-off" - let nature take its course - policy in the National Parks, the resident buffalo herds were thought to be brucellosis free due to an aggressive test and destroy, and vaccination program. Since the "hands-off" policy has been in effect, the incidence of infection has risen to a 60% rate. The buffalo that were killed in Montana in 1988-1989 tested approximately 60% positive and eleven (11) of the sixteen (16) killed in Grand Teton Park tested positive.
2. Researchers are trying to understand why a heavy infestation of the disease does not spread into 100% of the population when exposed. At the present time, testing and destroying with vaccination of the young seems to be the only really effective means to control and eradicate the organism. Dr. Donald Bridgewater, an epidemiologist with USDA/APHIS, did a very detailed study in the Dubois area. His report took all the information relating to 1.) the results of the livestock testing, 2.) the buffalo sightings, 3.) the elk migration and 4.) the known infection of elk and buffalo and came to the conclusion that the most likely source of the infection was, in fact, from elk and buffalo. Parker Ranch also had two epidemiologists from Colorado State University at Fort Collins, Colorado, Dr. J. Reif and Dr. M. Solman, review both the compiled raw data and the finished report from Dr. Bridgewater. In addition, they both were supplied with extensive ranch records for the past ten (10) years. Both of their reports were very emphatic as to the implication of the elk and buffalo. I am enclosing one page of a USDA/APHIS report dated Dec., 1989 showing seven (7) outbreaks of brucellosis attributed to elk and buffalo in Wyoming.
3. The control of and the eventual eradication of the disease from the National Park animals will be considerably less expensive than the continuing hassle over infections outside Park boundaries. The outbreaks in Wyoming had been successfully covered up by federal and state officials until the Parker episode. The pressure to take the indemnity and drop the situation rather than pursue the claims was extensive. Now that the extent of the infection is public knowledge, the likelihood of continuing claims by individuals is very real. At any time APHIS may have a change of mind about how much infection they will let leak out of the Parks before the states of Wyoming, Montana and Idaho will loose their brucellosis free status or other states will deny entry of cattle whose origins are Wyoming, Montana and Idaho. At that time, there will be a huge outbreak of class-action suits against the government agencies involved. If any of these suits get into court, there is always the possibility that the courts may take a dim view of the federal agencies actions or lack of action and put some very harsh restrictions in effect - more so than if actions were taken now that are proper, timely and effective. The several government agencies involved have the means and knowledge to carry out a control program and get results. A change in attitude and direction is all that is lacking.

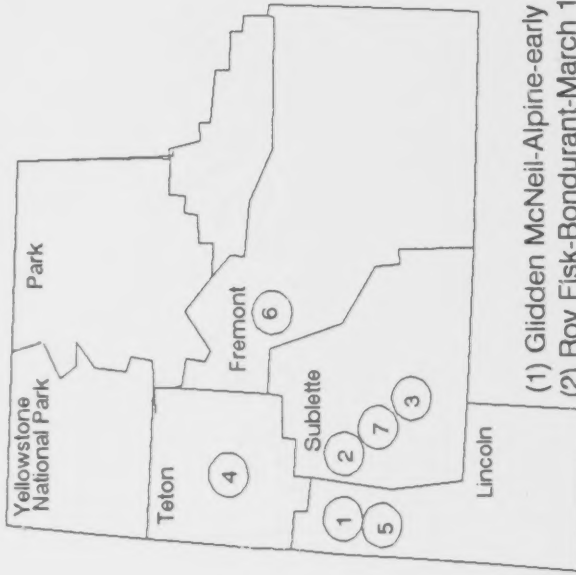
Answers by John D. Story
Page 2

4. I have had the pleasure of discussing this brucellosis situation with ranchers from all over Wyoming and several from Montana and Idaho. Without exception, they have all said that they had no idea of the extent and numbers of infected animals in and around the Parks (i.e., Northwestern Wyoming). The media coverage of the infected buffalo leaving the Park was only the beginning. Heavy elk infection was not even guessed. All the federal and state agencies have really guarded the knowledge hoping that the information would not get out. The most disturbing aspect to everyone is the complete lack of responsibility taken by the federal agencies. The agencies are just now starting to admit that they even have brucellosis, but still not admitting to a problem. No one can understand the agencies reluctance to do what is necessary to remedy a very serious problem. No one wants to see the vast resource and national heritage of the elk and the buffalo disappear. Everyone wants the animals, but in a healthy and viable state. Local ranchers in counties surrounding the Park system are very concerned with the continuing likelihood of infection and loss of their herds as well as the loss of the free status. The economic losses can be astronomical to a ranching operation. We have seen much resistance and some outright refusal to come to this area by ranchers who often put cattle in the Dubois area for the summer. All are concerned with the possibility of infection. Parker Ranch is under a heavy debt load, both from the expense of our livestock liquidation and our attempt to stock to a yearling operation. Our borrowing capacity has been reached with less than three fourths of our stocking capacity achieved. We know that our options as an operating ranch have been severely limited due to the brucellosis threat. We are now limited to a steer operation. The saleability of the ranch would be limited if we were forced to sell due to the infection threat. It does not make any sense to go back into a production-cow operation until sufficient progress has been made in the cleanup of the brucellosis in Northwest Wyoming. Our entire operation is geared to a cow-calf situation. Yearlings make very poor neighbors. A yearling-steer operation is a very shakey proposition at best financially and we do not appreciate being forced into that corner by a situation that could have been prevented and can now be remedied.

Signed



Brucellosis Affected Cattle Herds (Wyoming) Most Probable Source - Feral Elk and/or Bison



- (1) Glidden McNeil-Alpine-early 1960's and early 1970's
- (2) Roy Fisk-Bondurant-March 1982
- (3) Black Butte Pfts-Cora-December 1983
- (4) Dail Knori-Jackson-November 1984
- (5) Blaine Crook-Etna-November 1985
- (6) Parker L & C Co.-Fremont-February 1989
- (7) Wagstaff L & C Co.-Bondurant-MCI-November 1989

APPENDIX II

Additional Material Submitted for the Record

Public Lands Council

1301 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C. 20004, (202) 347-5355

National Cattlemen's Association
P.O. Box 3469
Englewood, CO 80155
(303) 694-0305

American Sheep Industry Association
6911 South Yosemite Street
Englewood, Colorado 80112
(303) 771-3500

Association of National Grasslands
Box 1028
Hettinger, ND 58639
(701) 567-4300

May 10, 1990

The Honorable Conrad Burns
183 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Burns:

The Public Lands Council represents 31,000 permittees who hold leases and permits to graze livestock on federal lands in the 14 western states.

PLC strongly supports S. 1767 requiring the Department of Interior to reimburse the States of Montana and Wyoming and individuals for expenses and economic losses caused from elk and bison of Yellowstone National Park infecting domestic livestock with brucellosis organisms.

We are seriously concerned about this dangerous disease that causes domestic cattle and wildlife to abort their young. As livestock operators, we are proud of the wholesome food and fiber we produce for our nation. Brucellosis and similar diseases pose a genuine threat to our livestock, our reputations, and our livelihoods. Moreover, brucellosis is transmittable to humans and can cause undulant disease through consumption of infected animal's meat or milk.

Brucellosis can have devastating economic consequence to ranchers. Once a cattle herd is identified as having brucellosis or simply coming from an area infected with the disease, the value of the livestock drops tremendously. Suddenly, no one wants to buy the animals. The producer's marketing options are severely limited as the herd may lose its "certified free status", and movement of animals between states is sharply curtailed. In some cases, the animals are even required to be destroyed because of the disease. Brucellosis jeopardizes the health and integrity of the cattle industry and costs livestock producers millions of dollars to track and control.

We find the National Park Service's lack of accountability and management regarding this issue scandalous. NPS consciously allows brucellosis infected elk and bison to freely enter and exit Yellowstone National Park. Yet, NPS has done nothing to control the disease, in either elk or bison populations, or to control the spread of brucellosis to domestic livestock. Montana, Wyoming, and the livestock producers in those states should not be taxed for the National Park Service's blatant lack of management responsibility.

We completely agree that the Department of Interior should be fully responsible for all costs incurred for livestock testing and losses due to brucellosis transmitted by elk and bison from Yellowstone National Park. S. 1767 accurately places the financial responsibility for management actions where it is justly due.

Sincerely,

Jim Magagna
Jim Magagna
President

Working for the Nature of Tomorrow.



NATIONAL WILDLIFE FEDERATION

1400 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800

COMMENTS OF THE NATIONAL WILDLIFE FEDERATION

ON

S.1767

A BILL TO REIMBURSE MONTANA AND INDIVIDUALS FOR EXPENSES
INCURRED TO TEST CATTLE FOR BRUCELLOSIS ORGANISMS CARRIED
OUTSIDE YELLOWSTONE NATIONAL PARK BY ELK AND BISON, AND
FOR OTHER PURPOSES

SUBMITTED TO THE

SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Prepared by

JAMES R. WALTMAN

FISHERIES AND WILDLIFE DIVISION

May 24, 1990

The National Wildlife Federation (NWF) appreciates this opportunity to comment on S.1767, a bill which, if enacted, would require the Secretary of Interior to reimburse the state of Montana and individual cattle owners for the expense of testing their cattle for brucellosis. NWF is the nation's largest conservation-education organization with over 5.8 million members and supporters and 51 affiliated state and territorial organizations.

While NWF understands the concerns of ranchers in Montana, we strongly oppose enactment of S.1767. Furthermore, we strongly oppose the language and intent of Amendment No. 1296, offered by Senator Wallop and others. This amendment would place no limits on the amount of public funds to be spent reimbursing Yellowstone area cattle ranchers for brucellosis testing, and for losses incurred by destroying diseased herds.

We are aware that brucellosis bearing organisms are present in some of the bison and elk in Yellowstone National Park. However, we find serious fault with legislation that would make the National Park Service (NPS) liable for ranchers' financial losses to the disease. Our objections to the bill are multiple, and detailed in the remainder of these comments.

In light of the history of brucellosis in the Yellowstone area, S.1767 tells western ranchers and the American public--that contrary to law, and popular belief, cattle and ranchers have a greater stake in the public lands than the wildlife and natural resources they were intended to conserve. Brucellosis has been present in cattle for centuries in this country and has been present in Yellowstone area wildlife for at least the better part of this century. Ranchers have used the range for decades even though it is common knowledge that brucellosis is present in the area. Why now, after a good half century of incorporating the costs of this disease as a cost of doing business, are the Yellowstone ranchers asking for a federal hand-out? Testing for pathogens and managing domestic livestock for disease control is, and must be considered, a cost of doing business for Yellowstone area ranchers, just as it is with ranchers elsewhere. The specter of this nation's taxpayers footing the bill for private businesses is especially outrageous when the majority of these cattle operations are pastured on public lands, benefitting from grazing fees substantially below fair market value.

Second, many disease experts agree that the disease was probably introduced to Yellowstone area wildlife by cattle, not the other way around. Brucellosis is likely an unfortunate legacy, left by cattle, and long suffered by the wildlife of Yellowstone and nearby areas. Yet S.1767 would turn these facts on their head, blaming the wildlife victims of the disease as the perpetrators,

and charging taxpayers the costs incurred by ranchers from a disease that was likely introduced by cattle and ranchers in the first place.

Moreover, while bison and elk are often implicated in transmitting the disease to Yellowstone area cattle, there has never been a documented case of brucellosis transmission between bison or elk and cattle in the wild. The implication of elk or bison as a possible source of the outbreak of brucellosis in the Parker Land and Cattle Company herd is based strictly on circumstantial evidence. Wildlife have been blamed simply because epidemiologists have not yet identified a bovine source for the disease.

Passage of this legislation would establish three very unfortunate precedents: (1) it would give credence to ranchers' claims that they should be compensated for the alleged costs of operating on public lands (handily ignoring the enormous grazing fee subsidies they enjoy); (2) it would establish that the federal government should compensate ranchers who operate on public lands for alleged financial losses caused by wildlife which inhabit both public and private lands; and (3) it would signal that ranchers who operate on public lands are entitled to certain "rights" derived from their use of public lands, and they are thus entitled to compensation for management actions and wildlife use which allegedly "infringe" on these "rights". The dynamic that is

really at work here is an evolving theory by some public lands ranchers that they not only are "entitled" to the public lands but also are entitled to a sure profit from them. S.1767 would establish these unfortunate precedents at the expense of the federal treasury and to the West's wildlife populations.

Montana livestock growers grossed over \$750 million on sales in 1987. It is appropriate that Montana ranchers use a portion of their receipts to cover the costs of managing and testing their own cattle. The \$50,000 authorized by S.1767 is only 0.007% of total annual receipts, and should be borne by the livestock growers.

To conclude, the National Wildlife Federation urges the Subcommittee to oppose S.1767 and Amendment No. 1296. While NWF appreciates the concerns of Yellowstone area ranchers, federal coverage of disease testing and compensation for livestock loss is not justified. Ranchers in the Yellowstone area have lived with brucellosis for over half a century and probably introduced the disease to the area. Furthermore, there has never been a documented case of brucellosis transmission between bison or elk and cattle. Appropriations related to brucellosis would, in our opinion, be more appropriately spent on research and management of the disease in Yellowstone area wildlife. Wildlife have long suffered from brucellosis and understanding of the disease is inadequate. The National Wildlife Federation appreciates this opportunity to comment on S.1767.



Wyoming Outdoor Council

May 23, 1990

The honorable Senator Dale Bumpers
Chair, Senate Subcommittee on Public Lands,
National Parks and Forests
364 Dirksen Senate Building
Washington, DC 20510

Attn: Beth Norcross, Ref: S 1767

Dear Senator Bumpers:

The Wyoming Outdoor Council is a 23 year-old statewide conservation organization for Wyoming, representing over 600 members, many of whom are ranchers. On behalf of the Wyoming Outdoor Council (WOC) I am writing to urge the Subcommittee to reject S 1767.

The Outdoor Council firmly believes that there are ways to resolve conflicts between the maintenance and enhancement of wildlife populations (such as those distributed around Yellowstone National Park) and the domestic grazing industry. Yet we find that S 1767, concerning brucellosis testing and compensation in the Yellowstone area, does little to prevent and resolve issues of wildlife and livestock conflicts for this disease.

The Outdoor Council offers the following comments about S 1767 and hopes that the major issues outlined here will indicate the inappropriateness of this bill.

I. Faulty assumptions about transmission of disease

The bill is written with the assumption that brucellosis infected cattle are infected by wildlife herds (bison, elk) that roam outside of Yellowstone Park's boundaries. However, many species of mammals, including coyotes, sparrows, bears, horses, and even pet dogs, can carry the disease. There has been no documented case of the disease being transmitted from wildlife to cattle in the wild. (Under experimental conditions this has been done.) Only 1.5% of the elk in the northern Yellowstone herd are thought to even carry brucellosis.

II. Faulty assumption about federal responsibility for wild populations, natural processes, and inherent risks of nature.
The bill assumes federal ownership and responsibility of wildlife whether animals are on state, private, or federally owned lands. The precedent this bill could set is enormous and horrifying. Would a motorist be able to be compensated from the government

for damage to his vehicle when struck by an elk from the Park? would a farmer request compensation for crops eaten by a roaming deer? Will this bill launch a series of legislation attempting to protect businesses from all vicissitudes and dangers (including diseases) of nature?

III. Ignores the fact that authorized feedgrounds probably increase the potential for brucellosis transmission between wildlife and livestock in areas outside the Greater Yellowstone Area to a much greater extent than what this bill attempts to address within the Park area.

The state of Wyoming has many authorized feedgrounds (along with an unknown number of private ones) which tend to bring wildlife in close side-by-side feeding contact with cattle. These lots alter natural social patterns and increase potential of disease transmission. All these state lots are outside the Park area.

IV. The bill lacks limits to compensation and testing costs. Language in the bill as "such sums as necessary" is vague and may well exceed the budgeted sums given the size of claims for losses.

V. The bill fails to address prevention measures and could encourage a cessation of vaccination practices. To date only one rancher has needed the form of compensation described in this bill. That businessman failed to inoculate his herd. According to a survey of our rancher membership this was highly unusual. Most ranchers inoculate regularly. Evidence of vaccination is crucial. Are we rewarding those who fail to follow sound disease-preventive practices?

VI. The bill fails to take into account forthcoming findings of numerous study groups both scientific and management-oriented, which address brucellosis specifically.

We suggest all legislative action dealing with brucellosis be postponed until the results of these studies are in.

Studies underway concerning scientific and/or management issues related to brucellosis transmission include:

1. USDA animal plant and health inspection Service (APHIS) study. Dr. Frye (202) 436-8711.

2. Ad Hoc Technical Committee on Brucellosis. Dr. Mary Meagher, Yellowstone National Park representative, (307) 344-7381 ext.2266.

3. Wyoming task force forming to study brucellosis. Dr. Tom Thorne (307) 766-5629 and Mr. Art Reese (307) 777-4563.

4. U.S. Forest Service. Long-range, NEPA complaint management plan with respect to reducing risk of brucellosis transmission. Calrich Inman (406) 587-6705.

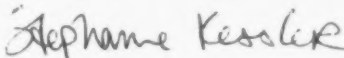
In summary, we offer these recommendations:

- S. 1767 should be rejected until further data about transmission of brucellosis is known.
- Explore the potential for rancher-purchased brucellosis insurance to protect individual businessman against the risk of infection.
- Sponsor research on preventive measures, especially such promising vaccination options as bio-bullets and vaccination salt licks.
- Eliminate feeding grounds that attract both wildlife and livestock.
- Require preventive vaccination of all cattle.

The Wyoming Outdoor Council believes a solution to the problem of brucellosis transmission can be found which will be mutually satisfactory to both ranchers and to our free roaming wildlife. We do have a great fear, however, of the implications of the government taking such a risk-free insurance role in the livestock (or any) industry--as this bill represents.

If we can be of any further assistance, please contact us. Thank you for your attention and your considerations of our comments.

Sincerely,



Stephanie Kessler
Executive Director



Greater Yellowstone Coalition

May 23, 1990

Senator Dale Bumpers, Chairman
Public Lands, National Parks and
Forests Subcommittee
308 Dirksen Bldg.
Washington, D.C. 20510

Dear Sen. Bumpers:

The Greater Yellowstone Coalition is submitting the following comments on S.1767, Senator Burns' proposal to reimburse cattle owners for testing and economic losses related to transmission of brucellosis from elk and bison to cattle. Clearly, the current status of Montana and Wyoming as "brucellosis-free" states is one that should be maintained. The loss of this status would be a hardship to the states and the livestock producers.

We would, however, like to offer the following comments to help put this issue in perspective. We feel strongly that, regardless how well-intentioned this bill may be, it does not address the real problem, it sets a dangerous precedent, and could establish an expensive, ineffective and inefficient policy.

The most disturbing aspect of this bill is that instead of addressing the problem of brucellosis transmission between wildlife and livestock, and the alternatives for keeping wildlife and livestock herds separate, it establishes federal financial responsibility for wildlife that leave the Park. This is a dangerous precedent, which, if taken to its logical conclusion, could lead to federal responsibility for all effects of wildlife that at any time leave federal lands. It also suggests the possibility of state responsibility for wildlife that leave state lands.

The problem is brucellosis infection within livestock. The assumption made in this bill is that the elk or bison travelling outside the Park are the source of any infection among livestock. This may not be the case. Although the disease has been transmitted from bison to cattle under experimental conditions, there is, in fact, no documented case of this happening in the wild. It is also worth noting that, according to Wyoming Game and Fish veterinarian Tom Thorne, a renowned brucellosis expert, all theories about the origin of the brucella organism indicate it came from cattle.

The simplest way to avoid infection, if we accept the bill's premise regarding the source of the infection, is to keep the wildlife and livestock herds separated. This may be difficult to do on private lands, but is certainly within the federal government's control on public lands.

Options include restricting grazing on public lands around the Park, thus allowing continued use of critical winter habitat by wildlife, or restricting grazing during the months with the highest potential for transmission of the disease, such as elk calving season. These

options should be considered in any discussion about controlling the transmission of brucellosis between wildlife and livestock.

On private lands, the issue is somewhat different. The prudent practice for ranchers whose private land borders the Park, and which is in fact winter range for elk and bison which wander outside the Park, should be to minimize the chances of infection caused by that intermingling, i.e., to vaccinate their livestock. Many ranchers around the Park do so. According to a Montana Department of Livestock veterinarian, Montana can order testing of Park area livestock after that livestock is exposed to Park elk or bison. In such cases, the testing costs are paid by the state, funded by state livestock fees.

This bill attempts to transfer the costs of that testing to the federal government, and in doing so, transfers liability for poor livestock management to the federal government. This bill fails to recognize any accountability by ranchers for prudent livestock management; it ignores their responsibility to vaccinate their livestock, and places the entire financial burden for their failure to do so on the federal government. This attempted transfer of responsibility is evidenced by the current \$1.2 million lawsuit of a Wyoming rancher whose herd was destroyed after evidence of brucellosis was discovered. His herd had not been vaccinated, and was likely infected by elk while grazing on public land.

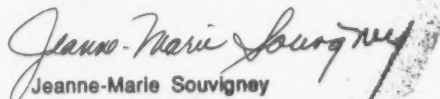
Another option regarding private lands and the conflicts between winter game range and livestock grazing is to acquire more winter range around the Park. Significant movement was made in this area with the purchase of the OTO Ranch in the Paradise Valley north of Gardiner, and other public and private efforts are continuing. A livestock-free buffer zone around the Park would decrease wildlife-livestock overlap, and drastically limit opportunities for transmission of the disease.

It would be a much more effective and efficient use of resources, including taxpayer dollars, to address the problem of transmission rather than establishing this dangerous precedent of placing financial responsibility for wildlife that leave the Park on the federal government. It's a Pandora's Box, and the potential policy, cost and liability issues are overwhelming.

Currently, work is underway through various task forces to address this issue and find solutions. For example, the Ad Hoc Technical Committee on Brucellosis in the Greater Yellowstone Area is attempting to learn more about the brucella organism, transmission of the disease, and potential solutions. The issue is not being ignored.

We urge you to reconsider the need for Congressional action at this time in light of these current efforts, and recognize that this bill is not the solution. It creates far more problems than it solves, and should be rejected.

Sincerely,


Jeanne-Marie Souvigny
Program Assistant

Colorado Wildlife Federation

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Paul Zogg
Editor/Secretary

May 22, 1990

The Honorable Dale Bumpers, Chairman
Senate Subcommittee on Public Lands,
National Parks and Forests
364 Dirksen Senate Building
Washington, D.C. 20510

Dear Senator Bumpers:

On behalf of the Colorado Wildlife Federation, I am writing to provide our testimony on S.B. 1767, which would provide federal funding for the states of Wyoming and Montana and cattle ranchers for brucellosis testing and losses assumed to be associated with wild elk and bison that use Yellowstone National Park.

The Colorado Wildlife Federation is the largest organization of conservationists and sportsmen in Colorado with 16,000 individual members. Our non-profit public interest organization is dedicated to the wise use and conservation of our natural resources.

In summary, we would like to express our strong opposition to S.B. 1767 for the following reasons:

A). Passage of this legislation would set a precedent that could encourage some ranchers in Colorado to request similar payments from our state Division of Wildlife, fostering divisive controversy. We strongly oppose passage of this legislation because we fear it will set a precedent that could encourage some ranchers in Colorado to request similar payments.

After all, it's only fair, they could argue, that if Wyoming and Montana ranchers are getting government funds for brucellosis infection, why shouldn't Colorado ranchers get such payments as well? And if ranchers near federal parks are getting funds, why not ranchers away from such parks as well? Where does the "fairness" argument stop?

If you assume that it is the duty of the government to provide brucellosis-free wildlife to the ranching community, as this legislation does, does the pressure for payment stop with this legislation? We don't think so.

Our Colorado Division of Wildlife is deemed to be the owner of all, or virtually all, of the wildlife in Colorado. This agency is funded almost entirely by license-buying sportsmen, many of whom are members of CWF.

We assure this subcommittee that requests for brucellosis payments out of Colorado DOW funds would be vigorously opposed by CWF and other sportsmen from the state of Colorado.

We strongly believe that it is NOT the duty of Colorado state government, nor the federal government for that matter, to provide brucellosis-free wildlife to our ranchers. Rather, we believe it is the duty of ranchers to shoulder this long-standing risk of doing business in the still relatively wild, Western environment in which they chose to live and establish their businesses.

We believe this brucellosis-payment issue should be stopped now by Congress -- before it is allowed to precipitate divisive controversy in state after state throughout the West.

B). No more subsidies for cattle ranching are justified. The Colorado livestock ranching industry is already heavily subsidized by federal, state and local governments. No more subsidies are justified.

These subsidies include:

a). Grazing rates on federal National Forest and Bureau of Land Management lands are only a fraction of fair market value, and many, many acres of these federal lands are leased for grazing.

b). Nearly 3 million acres of Colorado-owned school trust lands are also leased for grazing at rates below market value. Our state schoolchildren pay for this subsidy.

c). Property tax rates are set extremely low for agricultural lands throughout Colorado -- depriving our counties and state government of substantial additional revenues if other industries were using these lands.

d). Ranchers in Colorado benefit from the most liberal game damage payment program in the West -- and our Colorado Division of Wildlife, to our dismay, is conducting an experimental program attempting to greatly expand this program. This subsidy comes from the license-buying sportsmen of Colorado.

e). Ranchers so situated that their private land controls access to public lands (not all that uncommon) can charge access fees to sportsmen and recreationalists and control hunting-guide services not only on their own land, but public land as well. Because this situation could legally be remedied by federal use of condemnation powers, but generally is not, this is another federal subsidy.

f). Colorado ranchers benefit not only from state-financed Division of Wildlife control of predators, but also benefit from a U.S. Department of Agriculture program which continues to pay for the destruction of livestock predators.

g). Colorado ranchers benefit from herd-size limits imposed by the Division of Wildlife, often at the request of complaining ranchers, on big-game species like elk, deer and antelope. As a result, our Colorado Division of Wildlife probably takes in less revenue than it could, and our tourism economy probably also suffers.

h). Some Colorado ranchers over the years have benefitted and continue to benefit from publically subsidized projects to provide water. These subsidies have come from the federal Bureau of Reclamation in some cases and from state conservancy boards that are unelected in Colorado but have the power of taxation.

i). Some ranchers also benefit from range improvement funds from the federal government that are provided out of public land grazing revenues.

j). Colorado ranchers, along with ranchers around the nation, are also subsidized by the Clean Water Act, which thus far has failed to strictly regulate non-point source pollution. While other industries must pay to clean up our streams and groundwater, the ranching industry has thus far been exempt. Moreover, if our streams and groundwater do end up polluted, most likely the general taxpayers will be tapped to pay for the cleanup.

k). Colorado ranchers are also subsidized by exemptions in the Clean Water Act which permit ranching operations to be exempt from wetlands-filling regulations, while other wetlands-fillers are heavily regulated to help meet the current "no-net-loss" of wetlands policy established by President Bush.

l). Most private-land ranch owners in the West either benefitted from, or their predecessors did, low-cost federal land sales authorized by the Stock Raising Homestead Act or the Homestead Act.

In addition, there may be more subsidies (low cost small business or farm loans, for example, and federal flood insurance.)

In light of all these already authorized subsidies, we do not believe the ranching industry is justified in seeking new brucellosis payments.

C). If any relief is justified, funding should come by means of a "user fee" -- that is public land grazing fees

should be increased to finance the program. If the subcommittee does believe that payments for brucellosis expenses are justified, we would suggest that the livestock industry itself pay for this cost which is nothing more than a long-standing risk of doing business in a location chosen by the ranchers themselves.

In this time of huge federal budget deficits, when other "users" of federal resources are being asked to pay "user fees" to alleviate the need for a general tax increase -- we believe a "user fee" on the livestock industry would be especially appropriate.

We suggest in this case that federal funds could be raised for this purpose by increasing grazing fees on federal public lands in the West to fair market value. Since the bill is directed only at Montana and Wyoming at this time, perhaps the bill should just be limited to federal lands in those states at this time.

Then if ranchers in other states later decide they want the same subsidy, they could choose to pay for it through increased grazing rates in their own states.

This solution would be fair to both the livestock industry and to other federal taxpayers and users of federal lands in the West who might well, if given a choice, prefer to see elk and deer grazing on our public lands, rather than cattle.

We appreciate the opportunity to provide this testimony, and we hope you will include these comments in the record.

Sincerely yours,



Paul Zogg
Colorado Wildlife
Federation

JAMES AND JAMES

ATTORNEYS AT LAW

110 J STREET

P. O. BOX 1933

ROCK SPRING, WYOMING 82908

May 23, 1990

JOHN W. JAMES
MENA R. JAMESTELEPHONE
362-8464
AREA CODE 307

Honorable Dale Bumpers
Chairman, Senate Subcommittee
on Public Lands, National Parks and Forests
364 Dirksen Senate Building
Washington, D.C. 20510

Attention: Beth Norcross

Dear Senator Bumpers:

We are writing on behalf of the Big Game Resource Association. The undersigned Norman Gillespie is the Southwestern Wyoming Director of the Association, and John W. James is a member of the Political Committee.

The purpose of this letter is to address Senate Bill 1767 which would establish federal compensation for testing and losses related to the transmission of bovine brucellosis from bison and elk to domestic cattle. As a principal forum for hunters and wildlife conservation in the State of Wyoming, we are deeply disturbed by this legislation. We urge the Subcommittee to reject S. 1767.

We feel that the legislation is another subsidy granted to livestock owners by the federal government which is unneeded and represents another spending bill to subsidize livestock owners. There are currently approximately 600 landowners in Wyoming with elk roaming on their property, and these 600 landowners are making money from these elk herds on their private property from commercialization of the herds and through guided hunts for the animals. The landowners are making money from the elk, at the same time grazing their cattle on public property at very low grazing fees, and now requesting your Subcommittee to grant them another subsidy. It must be remembered that it was the cattlemen who first brought brucellosis to the range in Wyoming and not the other way around. We have one elk feeding ground in Wyoming, located entirely on private property. It is known as the Franz feeding ground. There is an outfitter who has leased this private property for hunting purposes and restricts trespassers or hunters on the property to those whom he and his employees guide. Additionally we are enclosing a copy of the Beaver Creek Outfitters circular regarding guided hunts on privately-owned ground, more than 20,000 acres bordering national forest. The

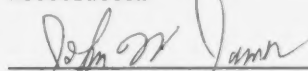
Senator Dale Bumpers
May 23, 1990
Page 2

circular specifically states that their gates are closed and patrolled. In addition we are also enclosing a copy of the Elk Mountain Safari circular which specifically states that over the past 20 years their resident elk herd has doubled in size. It also states that Elk Mountain Safari has the land and the elk to insure a successful experience.

These are merely a couple of examples of what landowners are doing not only in Wyoming but throughout the entire Rocky Mountains. The documents speak for themselves and show that these landowners have commercialized the elk herds and are making a profit from them. The landowners are not only in the guiding business but also in the business of raising cattle. I think that we can safely say that the vast majority of voters in Wyoming would be against S. 1767 as just another piece of federal "pork barrel" legislation to bail out livestock growers. Account must be taken that these landowners are already subsidized by very low grazing fees on public land and other government programs and the additional money that they receive from commercialization of the elk on their private property.

Very truly yours,


Norman Gillespie, Director South-
western Wyoming Big Game Resource
Association


John W. James, Member Political
Committee

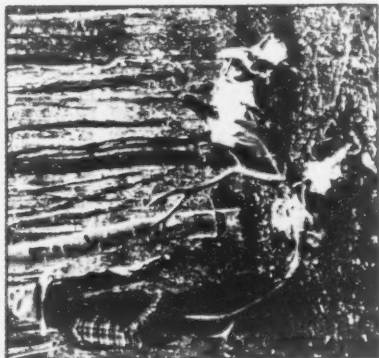


**BEAVER
CREEK
OUTFITTERS**

**EXCLUSIVE HUNTING
ON 20,000 ACRES OF
DEEDED
PRIVATE LAND**



**"HUNTER SATISFACTION
IS OUR PRIORITY."**



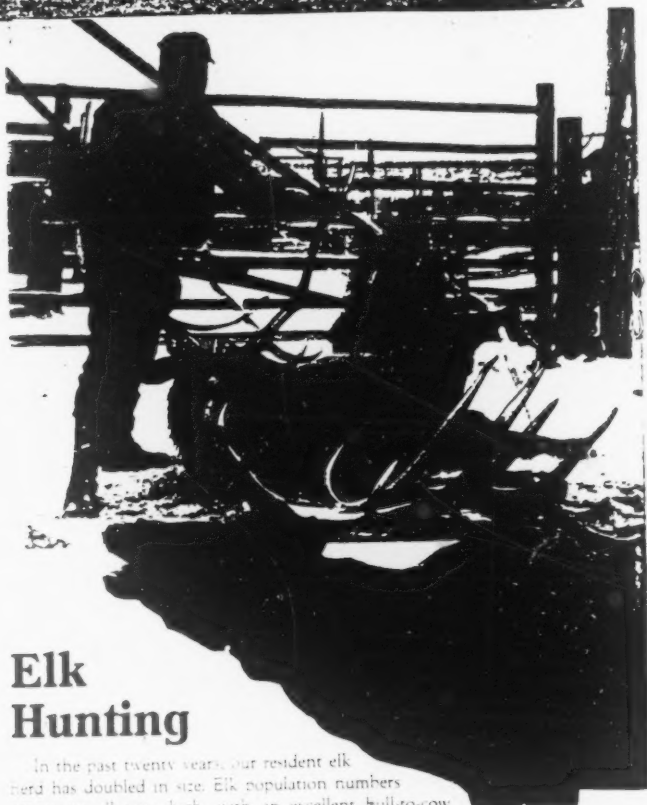
Beaver Creek Outfitters is not a game farm or refuge, it is a privately owned hunting camp on 20,000 acres of private land bordering National Forest and other private land. Since we have closed our gates and patrolled our fence, the quality of hunting has improved greatly and several trophies have been taken. Herd numbers have also increased. Branch antlered bulls and deer over 27 inches are a common sight. There is also an elk feedground on the property.



We have an extra bonus for Shiras moose hunters. Aside from the 20,000 acres on the rim, we have another 30,000 acres along the Green River, Cottonwood Creek and Middle Piney Creek where moose are abundant.



If you've hunted on National Forest land in the last few years, you know what the hunter pressure is like. Our patrolled boundaries insure a private quality hunt. A private hunt such as ours is hard to find in Wyoming.



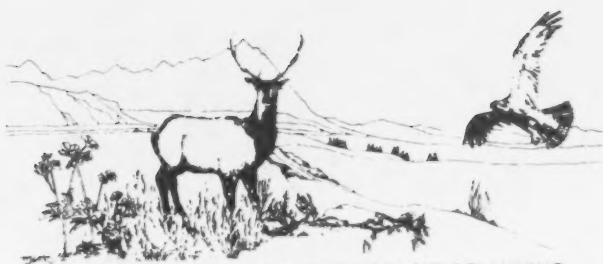
Elk Hunting

In the past twenty years, our resident elk herd has doubled in size. Elk population numbers are at an all time high, with an excellent bull-to-cow ratio and a good supply of trophy, mature bulls available. Hunter success rates have averaged 55% over the years and because of our population size, success rates have been on the upswing the past few years. Recently, we have had success rates as high as 100%.

An average bull for us is a 5x5, with mature 6x6 bulls available and taken every year. In order to maintain our bull-to-cow ratio and trophy quality, we refrain from shooting spikes.

Our elk hunts take place in elevations ranging from 7,500' to 11,000', where we hunt a wide variety of terrain and habitats. Much of our elk country is only accessible by foot and horseback, with only limited use of 4x4 vehicles possible.

For some, a Rocky Mountain elk hunt is the dream of a lifetime. We have the land, knowledgeable guides, equipment and most importantly, the elk, to insure your hunt will be a rewarding and successful experience.



JACKSON HOLE ALLIANCE FOR RESPONSIBLE PLANNING

Box 2728

Jackson, Wyoming 83001

(307) 733-9417

May 22, 1990

The Honorable Senator Dale Bumpers
 Chairman, Senate Subcommittee on
 Public Lands, National Parks and Forests
 364 Dirksen Senate Office Building
 Washington, D.C. 20510

ATTN: Beth Norcross

Re: S. 1767; Brucellosis compensation bill.

Dear Senator Bumpers:

I write to you on behalf of the of the Jackson Hole Alliance for Responsible Planning, a 1000 member land-use planning and conservation organization located in Jackson, Wyoming. Most of our members work and play in the vast expanses of public domain in northwestern Wyoming, and are sensitive to issues affecting those lands and the resources, particularly wildlife. It has been brought to our attention that a bill was recently introduced in Committee that would provide federal compensation to livestock grazers in Montana and Wyoming for the perceived transmission of Bovine brucellosis from Yellowstone National Park elk and bison to cattle. This bill, S. 1767, is ill-conceived and should be rejected out of hand by your Committee. We strongly urge its defeat.

Brucellosis is a disease thought to have been introduced to America's native wildlife through contact with European cattle hundreds of years ago. The disease certainly persists in Yellowstone National Park's elk and bison herds. It also exists in a host of other wildlife species from coyotes to grizzly bears to rodents. All of these wild animals exist within the confines of Yellowstone National Park. Brucellosis is also widespread in wildlife found within Grand Teton National Park and millions of acres of national forest lands in western Wyoming. The brucellosis bacteria is not limited to those land areas under the jurisdiction of the National Park Service in Yellowstone

✓

The Honorable Dale Bumpers
Page 2
5/22/90

National Park. Therefore, S. 1767 does not address the true extent of the brucellosis problem.

While the threat of brucellosis contamination to domestic livestock utilizing federal lands for forage is certainly real and potentially devastating to ranchers, S. 1767 provides nothing more than an awkward shot in the dark approach the problem. No scientific evidence exists proving that cattle have ever contracted brucellosis from free-ranging elk and/or bison. The current Senate bill appears to be nothing more than a direct subsidy of a powerful special interest group in the west. Aside from being morally and fiscally irresponsible, such a subsidy system sidesteps more onerous, fundamental truths. Why should running cattle on public lands be made risk free?

Even if contraction of brucellosis in the wild from elk or bison to cattle were proven, such should never be the cause for subsidizing cattle grazing on federal lands in the west. The livestock industry is a business. Like any other business in America, it faces risks and dangers in the ordinary course of events. Grazing of cattle on the federal domain is not, nor should it be, risk-free. Many natural dangers face cattle on the range. Whether through predation or drowning in streams and mud wallows, to falling off cliffs, it is a business risk and fact that ranchers will lose cattle to natural causes each year. Bovine brucellosis is simply another natural event found on the public domain in the west. It is another business risk cattle ranchers must address on their own.

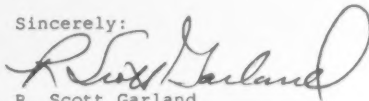
The current Senate bill 1767 would require the Secretary of Interior (hence U.S. Fish & Wildlife Service) to determine if livestock has been exposed to brucellosis from a Yellowstone National Park elk or bison, and reimburse the livestock owner for testing and losses. This concept equates to an administrative nightmare. There is no scientific way to tell from which animal brucellosis is contracted. As noted above, brucellosis exists in many species of animals on all federal lands in western Wyoming. The bill requires the Fish & Wildlife Service to attempt the impossible.

More importantly, the bill does not even consider the root causes of the widespread distribution of the disease in wildlife. Experts believe that the crowding of elk and bison on feed grounds in winter leads to dramatic increases and spread of the disease among elk and bison. Those animals winter on feed grounds primarily for one reason - because the existing natural winter range for elk and bison is almost completely in the hands of cattle ranchers. The wildlife have been driven off their natural forage and in to artificial feeding programs. The result is the easy spread of diseases such as brucellosis. Now the very industry that has caused this situation is asking the federal government to spend taxpayers dollars to subsidize a problem they helped create, and not even address the cause of the problem.

The Honorable Dale Bumpers
Page 3
5/22/90

There are so many reasons why this bill is a bad idea, it would take pages to iterate them. Rest assured that there are many in Wyoming who will not take this boondoggle lightly if it succeeds. We urge the Subcommittee to act responsibly and reject S. 1767. America's wildlife and public lands resources are too precious to be relegated to the interests of a few livestock concerns.

Sincerely:



R. Scott Garland
Public Lands Director

cc: Wyoming Congressional Delegation
Governor Mike Sullivan
Wyoming Game & Fish Dept.
Yellowstone National Park
Grand Teton National Park
Bridger-Teton National Forest
Greater Yellowstone Coordinating Committee



Meredith Taylor
P.O. 31, Box 987
Dubois, WY 82513

WYOMING CHAPTER SIERRA CLUB

MAY 2, 1990

Honorable Dale Bumpers
Senate Subcommittee on Public Lands, National Parks and Forests
364 Dirksen Senate Office Building
Washington, DC 20510

May 12, 1990

Dear Mr. Bumpers,

I recently learned of the testimony received by your subcommittee regarding the brucellosis issue in Greater Yellowstone. I am disturbed that your staff did not notify the conservation community about the hearing so that we could have addressed your subcommittee at the same hearing.

The brucellosis infection of livestock and wildlife subject is a particularly complicated one that demands a fair amount of research and background to understand. The story involves probable transmission of brucellosis to wildlife in the late 19th century following the settling of the American West by infected (and untested) livestock. However, there is no proof of this disease introduction, since documentation of the origin of the problem does not even exist.

Since that time researchers have identified the disease and a solution to control the incidence of brucellosis was sought. The government has instituted a massive brucellosis eradication campaign that has resulted in declaration of Wyoming, Montana and Idaho as "Brucellosis-Free". Two years ago one of the ranchers that leases federal land for a grazing allotment on the Shoshone National Forest found his stock had contracted brucellosis. Although there is no documentation for actual vaccination of the livestock management programs, John Story (Parker Land and Cattle Co.) claimed his stock had been vaccinated against brucellosis. With only 50-70 percent efficacy rate of the immunization it is not surprising that some animals would have been infected, but not all of the ranch's livestock should have contracted the disease if they had been correctly immunized.

Be that as it may, there are a number of solutions to this unwieldy problem:

- * the ranchers' proposal of government compensation of all livestock testing and losses is one. But, frankly, I do not consider this a viable solution since it only creates another agricultural subsidy with no lasting positive effects toward solution of the problem;

"Not blind opposition to progress, but opposition to blind progress."

* the government may continue or increase the federal acquisition of private lands surrounding Yellowstone in an attempt to provide winter range for wildlife that would not interfere with private agricultural interests. During the past century private landowners have purchased some of the most important critical winter range that is now causing problems for wildlife populations in Greater Yellowstone;

* the federal land management agencies may close public lands to private livestock grazing in an attempt to separate the brucellosis-infected wildlife from the livestock. This subject has come up numerous times in an effort to provide satisfactory habitat to the wildlife in Greater Yellowstone;

* the wildlife could be vaccinated with either bio-bullets or potentially via an oral vaccine that could be administered with strategically placed salt blocks on the range. This is a rather arbitrary way of reaching a large wild population; however. The small animals (such as raccoons, beaver, badgers, deer, bobcat, mice, pack rats, etc.) that carry the brucellosis may never get reached by such a program.

* the winter feed grounds that encourage the communication of such diseases as brucellosis should be scaled down. Recently these areas of dense animal congregation during the winter season have raised serious questions about the fact that they are not contributing to the longterm well-being of the animals for which they were set up. Habitat protection and acquisition has been a much wiser expenditure of federal funds than setting up these disease-ridden feed grounds.

* hunting the big game outside the park has helped reduce the infected animals, but the hunt only targets bison and elk, whereas so many other animals are carrying the disease that the hunt is only a temporary remedy to a longterm problem. Killing all the infected animals is not a reasonable solution to the brucellosis problem.

* the government could limit the livestock to only use the public range well after calving season, when the risk of contamination from contact with infected fetuses is much lower.

Therefore, I strongly urge you to throw the Senate Bill 1767 out of subcommittee and try to find other solutions to this problem. The number of ranchers and livestock involved in this area are small in comparison to those of the whole country's need for beef and cattle products. In addition, these are the animals for whom ranchers (mostly absentee, such as Parker Land and Cattle Company) pay \$1.37 per month for a cow and calf pair to graze on public lands. It would seem in the best interest of this country to manage the critical wildlife habitat of Greater Yellowstone for the wildlife and let the livestock take up its range on the private ground of its own ranches.

I hope this has helped clarify this issue for you. I look forward to seeing a more equitable solution to this problem.

Sincerely,

Meredith Taylor
Chapter Chair

Meredith Taylor

MIKE SULLIVAN
GOVERNOR

THE STATE OF WYOMING



Wyoming Department of Agriculture

DON ROLSTON
COMMISSIONER

2219 CAREY AVENUE
TELEPHONE: (307) 777-7321 CHEYENNE, WYOMING 82002-0100
FAX (307) 777-8593

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COLLEGE OF AGRICULTURE

January 3, 1990

Bob Barbic, Superintendent
Yellowstone National Park
Yellowstone National Park, Wyoming 82190

Dear Bob:

I am enclosing an AP news clipping from the December 13th issue of the Casper Star Tribune concerning brucellosis in the Yellowstone Park bison herd which I know concerns you as much as it does me.

The article states that the National Park Service indicated "that unless scientists can prove brucellosis was not in the park when Yellowstone was created in 1872, it may classify the bacteria as a "native species". Park policy forbids eradication of any native species."

Having visited with you in the past concerning bison I can't believe that this is actually the policy of the National Park Service at this time or that you would seriously consider such an action in the future.

However, since the issue has come up in the press and I have had a few calls from ranchers who are concerned about the health of their livestock I would appreciate you clarifying the position of the National Park Service on this issue.

Thank you for your help on this matter, and I am looking forward to working with you and members of your staff on a variety of issues in the future.

Sincerely,

Don Rolston
Don Rolston
Commissioner

DR:bgs

cc: Senator Simpson
Senator Wallop
Congressman Thomas
Governor Sullivan
Jack Troyer, Greater Yellowstone Coordinating Committee
Larry Bourret, Wyoming Farm Bureau
Bob Budd, Wyoming Stock Growers
Carolyn Paseneaux, Wyoming Wool Growers
Norman Swanson, State Veterinarian

...ordinating Com-
say the natural features
as scenery, geothermal
systems, wildlife and "natural-
ness" should receive priority.

Members of the task force say the new goals will help coordinate management of the vast public lands in the region and bring "ecosystem" management closer to reality.

"It's setting a precedent, and maybe setting some new direc-

table." Gibson said the goals could result in amendments in forest plans to accommodate the priorities.

"Over time, there is the potential for less commodity production and an even greater emphasis on amenity concerns," Gibson said. Where there is commodity production, a more cautious approach will be taken, he said.

Gary Cargill, regional for-

might also come in the way the forest service addresses timber sales, oil and gas development and mining.

Reduced commodities production is "one feasible and possible scenario, however equally feasible is to find ways for the industries, commodities, to operate in ways that are compatible with the things we've outlined as having special value," Cargill said.

The goals are a lofty, intellectual effort to find common ground between the Park Service's mandate of preservation

Bison Hunt Begins Anew With Support From Animal Scientist

HELENA, Mont. (AP) — Bison that blunder over the line from Yellowstone National Park are fair game for hunters again this winter, but park officials expect the harvest to be smaller than the 500 taken last season.

Just how many of the big, furry beasts will wander outside the park boundaries to graze depends on how severe the winter is and how pinched the food supply within the park, officials say. Hunters aren't allowed to shoot buffalo in the park.

But statements by a leading zoologist have added weight to the state's contention that the slaughter of wandering bison is necessary to prevent the spread of brucellosis among Montana cattle herds, despite the outrage such killings may produce.

Dr. Don Davis, a Texas A&M University specialist in the highly infectious bacterial disease, said previous claims by park officials that the bison bug could not be transmitted to cattle have proven false.

"Montana has spent in excess of \$260 million of federal and state money to rid the domestic livestock of brucellosis," Davis said. "So you can see why you're not real crazy to get it back again."

Davis, scientific adviser to a committee on brucellosis in Montana, Wyoming and Idaho, said the National Park Service could do more to eradicate brucellosis in the Yellowstone herds by isolating and slaughtering infected bison.

But that would mean killing the animals on park property, and that isn't going to happen, he said.

"We're talking big-time political and economic concessions if they were to do that," Davis said.

The Park Service says that unless scientists can prove brucellosis was not in the park when Yellowstone was created in 1872, it may classify the bacteria as a "native species." Park policy forbids eradication of any native species.

Eradicating brucellosis from the buffalo herd could prove useless if the organism is native to the area and simply reinfects the animals, said Yellowstone spokeswoman Joan Anzelmo. And the buffalo would no longer be a wild, free-roaming species if they were treated like domestic cattle, she said.

Brucellosis, also called Bang's disease, causes domestic cattle to lose their calves. It can cause undulant fever — characterized by recurring fever and aching joints — in humans who get it through unpasteurized milk or direct contact with infected animals. It generally can't be transmitted through meat.

The U.S. Agriculture Department has been trying for decades to eliminate the disease from commercial herds. So far, USDA says, 27 states are free of brucellosis, with the disease most prevalent in the South. Brucellosis was eradicated from Montana cattle in 1984.

Last year, due to food shortages caused by the massive 1988 forest fires and an ensuing harsh winter, hundreds of hungry bison wandered north onto Montana cattle ranches.

Hunters were called in to snag strays, and a record 569 bison were killed. Of these about half were found to be infected with brucellosis. Park officials counted 418 buffalo in the northern herd last week and estimate a park total of about 2,000 animals in the park's three major herds.

Wyoming, where most of Yellowstone is located, does not permit the shooting of stray bison.

Animal rights activists sought unsuccessfully to stop last year's hunt, which to some was sadly reminiscent of the massive buffalo slaughter of a century ago that signalled the final taming of the Wild West.

Although the bison season legally began Oct. 1, it does not actually start until and unless bison begin leaving the park. That usually happens in December, although it may not happen at all if the winter is mild.

"The biologists can't predict whether they'll move as they did last year," Anzelmo said. "We hope not. Maybe only a few will leave the park."

Previously officials have said they expect no more than 200 to be harvested this year.

In preparation for the hunt, 3,217 people have paid \$5 to apply for a bison permit.

Some in State May Get 15-Month Licenses

The Associated Press

Residents of counties that opt out of staggered automobile registration would have to pay their next registration fee for 15

months, according to the old state law.

Many counties will implement staggered registration and residents will be asked to register

decide not to charge for 15 months, stating that the law might be subject to an equal protection challenge in the courts.

Problem Statement

Brucellosis in Bison and Elk: A Significant Problem for Brucellosis Eradication in Cattle

Background

Brucellosis is a disease with major national and international economic ramifications for the multi-billion dollar United States cattle industry. A substantial portion of this industry involves foreign markets. Failure to complete brucellosis eradication in cattle within the United States may result in the loss of some foreign markets, and at a minimum increases the cost of United States cattle products. Currently, 16 countries (including Canada) have cattle industries that are classified as brucellosis free. Within the United States this status has been achieved by 27 states, including Montana and Wyoming.

Extensive testing and monitoring of cattle for brucellosis is required of states/countries not free of this disease prior to shipping cattle to brucellosis free areas. The current Federal/State Brucellosis Eradication Program costs an estimated \$20 million per year. The program has been in effect since 1934. Cumulative program costs and recent success in reducing the prevalence of brucellosis in cattle to a very low level has resulted in Congressional pressure to achieve eradication of this disease within the next 3 to 5 years. The presence of brucellosis in wildlife populations closely associated with cattle is incompatible with eradication of the disease and maintenance of a brucellosis free cattle industry.

The last remaining reservoir of brucellosis in the north central part of the United States exists in elk and bison of the greater Yellowstone ecosystem. Recent occurrences of brucellosis in Wyoming cattle have been traced to a probable elk/bison source. Cattle from Wyoming reached 24 other state markets in 1988, emphasizing the national and international scope of the problem.

Brucellosis is maintained in elk and bison through direct contact with infected aborted material. In elk the disease is associated with winter feedgrounds. Approximately one-half of the elk on winter feedgrounds in Wyoming are on the National Elk Refuge. Substantial numbers of elk and bison are also maintained on State Fish and Game feedgrounds. In addition, approximately 100 bison occur seasonally on the National Elk Refuge. Yellowstone National Park also has substantial numbers of elk and bison. Bison and elk from all of these areas are known to be infected with brucellosis and seasonally move across private lands. The potential for brucellosis transmission to cattle under these conditions has economic impacts that demand this problem be resolved. The manner in which a resolution is reached has major implications for natural resource managers.

Discussion

The State-Federal and agriculture-wildlife aspects of the brucellosis problem dictates need for an interagency cooperative approach to achieve a satisfactory problem resolution. The Ad-hoc Technical Committee on Brucellosis of the United States Animal Health Association has been seeking ways to resolve this problem. The Committee currently has representatives from the Fish and Wildlife Service (FWS), United States Department of Agriculture (USDA), National Park Service (NPS), the states of Wyoming, Montana, and Idaho (agriculture and fish and game), and university researchers. However, actions taken by USDA, NPS, and FWS will have a major impact on how this problem is addressed because of: (1) USDA's regulatory responsibility for diseases in cattle; (2) NPS's stewardship of Yellowstone National Park, which hosts the primary brucellosis infected bison herd; and (3) FWS stewardship of the National Elk Refuge, which serves as a focal point for the disease in elk. The problem cannot be resolved without addressing the disease in all three species.

It is reasonable to assume that, as in the past, brucellosis will be elevated to the Secretary's level during further attempts to resolve the problem. The NPS does not have internal capabilities for addressing animal disease issues and has called upon the FWS for technical assistance. Strengthening and encouraging this relationship by formal actions of the two Agencies should aid the Secretary of Interior in his interactions with the Secretary of Agriculture, and perhaps Congress, on this matter. It is time to seek a collaborative Federal budget initiative (preferably FWS/NPS/USDA, but at least FWS/NPS) to resolve the brucellosis problem in a manner that serves the Nation's economy, the needs of the livestock industry, and protects wildlife interests. This can be achieved provided a coordinated program of appropriate State/Federal investigations and information gathering is initiated and allowed to proceed in a methodical manner. Forced resolution of the brucellosis problem in a confrontational atmosphere brought about by agricultural economics or wildlife protectionism will not allow time for important information to be obtained and carries an inherent risk of establishing precedents that could have long-term negative impacts for the management of natural resources. The probability for such a confrontation is greater today than in the past because of increased success of other nations to eradicate this disease, the economic advantage this provides in international markets, and increased public emphasis on maintenance of "natural environments."

Recommendations

The following actions are recommended for the FWS to pursue regarding the brucellosis issue:

1. The FWS should take an aggressive role in addressing brucellosis in wildlife on National Wildlife Refuge lands and establish collaborative efforts with the NPS and other Department of Interior Agencies to provide technical assistance for addressing brucellosis on lands under their stewardship.

2. The FWS should play an active role in establishing a position of pursuing resolution of the threat of brucellosis transmission from wildlife to cattle in a manner that protects state and federal wildlife interests without undue impacts on the economy of the cattle industry.
3. An interagency budget initiative should be sought to support research and economic assessments important for obtaining information of direct relevance to resolution of the brucellosis issue.

Other activities that should be undertaken are:

1. The FWS should maintain participation on the Ad-hoc Technical Committee on Brucellosis of the United States Animal Health Association.
2. If requested, the FWS should accept responsibility for leadership of a field response team focussed on collecting relevant information on brucellosis in elk, bison, and other wildlife on federal lands.
3. The FWS should pursue the development of collaborative investigations with other Interior Agencies and State Fish and Game Agencies.
4. Efforts should be pursued for collaborative investigations between FWS and the Canadian Wildlife Service in the hybrid bison eradication program proposed for Canada's Wood Buffalo National Park. Information that could be gained from this program has direct value in addressing brucellosis on Department of Interior lands.

National Wildlife Health Research Center

January 1990

PARKER LAND & LIVESTOCK
1989 BRUCELLOSIS OUT-BREAK
DUBOIS, WYOMING

Ownership and Management.

The Parker Land and Cattle Company, Inc. ("PLCC"), a Wyoming corporation organized in 1969, is located at the Parker Ranch headquarters that are approximately one-half mile north of the town of Dubois, Wyoming, on Highway 26-287. PLCC is owned by Mr. Thomas L. Parker, with Mr. John B. Story as company president and ranch manager. Mr. Story is a graduate of the University of Wyoming College of Agriculture and has held his position since 1968. Until February, 1989, the ranch operated as a commercial, 622 head cow-calf herd.

Herd Management.

PLCC has been engaged in a program of continual herd improvement for the last 23 years. The chief attributes of this herd improvement program have involved the use of production tested Simmental bulls for the purpose of cross-breeding with Hereford cows and replacement heifers raised on the ranch. This practice has resulted in weaning weights in calves going from approximately 350 lbs. to over 600 lbs. In order to achieve these weaning weights, calving begins on approximately January 25th. Early calving required that PLCC practice intensive herd

management which has resulted in a calf crop of approximately 95% each year.

Upon the availability of approved vaccine, PLCC has conducted a program of calfhood brucellosis vaccination for the last five years. Local veterinarians have used the Strain 19 low-dose vaccine for this purpose. The veterinarians involved have been Dr. William Powell and Dr. Robin Waldron. PLCC pregnancy tests its cows and open and older cattle are shipped to the sale barn in Riverton, Wyoming. There have been no reports of reactors to brucellosis testing through the sale barn and slaughter house. In all respect, this is a closed herd, meaning that the only new animals coming onto the ranch are the production tested bulls.

Grazing Program.

Spring grazing is done on land owned by the Parker Ranch, a 4,000 acre parcel known as Crooked Creek. Summer grazing is done on allotments which are held under ten-year grazing permits issued by both the U.S. Department of the Interior, Bureau of Land Management and U.S. Forest Service. The federal grazing allotments are fenced so that there is little co-mingling of herds with other ranchers who also have grazing rights in the Shoshone National Forest. At the direction of the Forest Service's Grazing Supervision, the cattle are moved onto the

national forest in June of each year and are taken off in October. Calves are separated from the cows and heifer calves are culled and held for replacement, the steers are shipped.

Mr. Story recalls that the summer of 1988 was a typical year except for two factors. First, it was the first time he sighted buffalo in the vicinity of and on his grazing allotments in the Shoshone National Forest. He reported these sightings in August to both the local Game Warden, Kay Bowles, and to Wyoming Game and Fish Department headquarters in Cheyenne. Mr. Story has had a general understanding in his 23 years of ranch management that the buffalo, whose herds are located in Grand Teton and Yellowstone National Park, are infected with the brucellosis disease. His concern for the health of his livestock prompted him to contact state wildlife officials, rather than take direct action himself. A photograph showing the buffalo grazing with PLCC cattle on the Forest Service allotment was taken that period by Mrs. Jack Conley.

The second difference was the need created by local draught conditions to move the PLCC herd onto the spring range it owned earlier than normal. PLCC cattle were moved onto the Crooked Creek pasture in late May and then on the national forest, the Warm Springs and Horse Creek, allotments on June 17, 1988. This was one day later than normal for Warm Springs and four days earlier than usual for Horse Creek. The Crooked Creek and Warm

Springs pastures are locations for migratory and local elk populations which calf during the early summer months (May-June). Until the occurrence of brucellosis in the PLCC herd, Mr. Story had no knowledge that the elk herds in this area were infected with this disease.

In February of 1989, one of the cull cows, which had been sent to the Riverton sale, was identified as a positive brucellosis serological reactor. Following the identification of the infection in the PLCC herd, the Western Regional Veterinarian Services Offices of the U.S.D.A., A.P.H.I.S., and the Wyoming State Veterinarian's Office began a complete blood test of the PLCC herd, and eight other herds which are epidemiologically associated.

On February 27, 1989, as part of the control program, the PLCC herd was quarantined to ranch premises under an order issued by the Wyoming State Veterinarian, while serological testing was completed for the entire herd in two rounds. The first complete herd test was conducted from February 22, 1989 through March 1, 1989. The second complete test was conducted on March 28, 1989. The initial test showed 45 positive reactors and 38 positive reactors were reported in the second test. After the first complete herd test, 51 baby calves from reactor suspect cows were shipped immediately to Western Valley Packing Company in Scottsbluff, Nebraska. Tissues were taken from 15 of the 45 cows

and were sent to the micro-biology laboratory at the University of Wyoming for bacterial culturing and were later submitted to the National Veterinarian Service Laboratory (NVSL) in Ames, Iowa for typing. The NVSL reported that Biovar 1 had been isolated from all tissues submitted. Following the second complete herd test, 38 cattle were culled for disposal purposes again to Western Valley Packing Company. An additional 26 calves were sent to Brent Jones Customs Kill in Rigby, Idaho for immediate slaughter.

During the week of April 17, 1989, the balance of the PLCC herd was S-branded and sent to the Snake River Cattle Company in American Falls to be quarantined in feed lots. At this point in time, there were 450 cows, heifers, and herd bulls and an additional 362 head of calves. The bull calves were castrated and the heifer calves were sterilized after weaning. Following weaning, the cows were sold and slaughtered. Approximately 200 head of spayed heifers and 162 steers were returned to the Parker Ranch. An additional 125 head of spayed replacement yearling heifers were sold for slaughter.

After contacting various experts in the area of brucellosis research and epidemiology, PLCC has learned that B. abortus Biovar 1 is the same bio-type which has been isolated in tissue cultures from elk and buffalo herds in the Greater Yellowstone Ecological System. Moreover, in recent years, research conducted

on elk, by the Wyoming Game and Fish Department, and on buffalo, by Texas A & M, has established that brucellosis can be transmitted from these wildlife species to domestic cattle. Both the elk and buffalo herds in Grand Teton National Park and the National Elk Refuge are thought to be "highly infected" with more than one out of eight mature females having the disease. At this point, both epidemiological studies and tissue cultures have tied the source of infection in the PLCC herd to wildlife.

Human Health Concerns.

Substantial documentation exists on the ability of human beings, particularly slaughter house workers, to contract brucellosis from infected animals. According to the Montana State Veterinarian's Office, a recent case documented that a hunter had contracted the disease in the process of field dressing an elk. Furthermore, in their hunting orders issued for buffalo, the Montana Department of Fish, Wildlife and Parks expressly warns hunters about brucellosis and advises them to take precautions such as, wearing protective gloves when dressing carcasses and avoiding contact with milk or material from the animal's reproductive tracts. It was because of such concerns that PLCC requested all its employees to undertake a blood screening to determine if they had been infected by the disease. Unfortunately, recent screening indicated that one of the ranch employees had been exposed to the disease. Further testing is

being undertaken and it is hoped that this infection can be treated aggressively with antibiotics. Brucellosis in humans is fairly easy to control if it is treated early. However, if the disease reaches a chronic stage, treatment is difficult and it is impossible to cure. At these later stages, the disease is extremely debilitating. In pregnant women, the disease also causes abortion and still birth.

Implications.

The out-break of brucellosis in the PLCC herd has wide-ranging implications for commercial livestock operations in the State of Wyoming. Not only has the PLCC lost its entire breeding herd, the threat of future brucellosis infection has resulted in modifying ranching practices to a yearling feed-out operation. Mr. Story believes that this form of livestock raising is unsuited to the mountain-meadow cow-calf ranch operation he has conducted in the past.

Currently, the State of Wyoming is considered by state and federal veterinarians to be brucellosis-free. However, this status could change based upon the out-break in the PLCC herd and will definitely change if brucellosis is detected in other neighboring herds. The loss of brucellosis-free status will mean

additional inspection and quarantine for cattle which are transported from Wyoming to neighboring states. Cattle exports to Canada may also be severely restricted.

The impacts upon human health could also be dramatic. The possibility that the disease can be contracted by stockmen and hunters who have not been properly warned about the dangers, must be considered to be equally as serious as the impact upon ranching.

PARKER LAND AND CATTLE COMPANY
EPIDEMIOLOGY
BRUCELLOSIS REACTOR HERD
DUBOIS, WYOMING
POTENTIAL SOURCE(S)

By

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U.S.D.A., A.P.H.I.S. - VETERINARY SERVICES
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State of Wyoming

PARKER LAND and CATTLE COMPANY
EPIDEMIOLOGY
BRUCELLOSIS REACTOR HERD
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INDEX

Introduction	Page 1
Summary	Page 1
Conclusions	Page 2
Parker Land and Cattle Company	Page 3
Status of herd	Page 3
Test data	Page 3
Disposition	Page 5
Epidemiologically-associated herds	Page 6
Adjacent/Contact Herds (Associated Herds)	Page 7
Winchester Land and Cattle Company	Page 8
Diamond D Ranch	Page 8
Johnson Cattle Company	Page 9
Timberline Ranch	Page 9
Thunderhead Ranch	Page 10
Cross Ranch	Page 10
Cross Brace Ranch	Page 11
Jim Fike	Page 11
A review of the Log For Market Cattle Test Reactors	Page 12
Vaccination Status, Parker Land & Cattle Company	Page 13
Vaccination Status, Parker Land & Cattle Company Associated Herds	Page 13
Winchester Land and Cattle Company	Page 13
Diamond D Ranch	Page 14
Johnson Cattle Company	Page 14
Timberline Ranch	Page 14
Thunderhead Ranch	Page 14

Cross Ranch	Page 15
Cross Brace Ranch	Page 15
Jime Fike & LeClair	Page 15
Herd and Wildlife Associations To Parker Land and Cattle Company	Page 16

HERD ASSOCIATIONS

Parker Land and Cattle Company	Page 16
Johnson Cattle Company	Page 16
Winchester Land and Cattle Company	Page 17
Timberline Ranch	Page 17
Cross Ranch	Page 17
Thunderhead Ranch	Page 18
Brad Eastman	Page 18
Cross Brace Ranch	Page 19
Diamond D Ranch	Page 19
Jime Fike	Page 19
Rober A. Williams	Page 20
John H. Anderson	Page 20

WILDLIFE ASSOCIATIONS

Buffalo (Bison) - General	Page 20
Brucellosis Status of Bison Herds	Page 21
Bison Sightings	Page 21
Brucellosis Status of Elk Herds and Their Location	Page 25
Discussion of potential Parker Land and Cattle Company brucellosis source(s) as of May 3, 1989	Page 28
Conclusions	Page 29

Tables

Maps

Parker Land and Cattle Company
Epidemiology
Brucellosis Reactor Herd
Dubois, Wyoming
Potential Source(s)

By

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May 12, 1989

Introduction

In February 1989, a slaughter MCI reactor was traced to the Parker Land and Cattle Company herd headquartered in Fremont County just west of Dubois, Wyoming (State of Wyoming map). A complete herd test of 622 head of eligible cattle in the herd revealed it to be a brucellosis reactor herd (Table 1). The isolation of biovar 1 from several titrated cattle in the herd confirmed it to be infected with brucellosis. The State of Wyoming obtained its Class Free Brucellosis status in April 1985. The potential exists for this status to be suspended if the field strain infection is found to be imported, and brucellosis has spread to other herds in the area.

Summary

All records reviewed to date support the statement made by the manager of the Parker Land and Cattle Company that the herd is a closed herd. Only bulls have been purchased for the herd in the past few years. The bulls were identified in the herd and have been tested negative. Dr. Al Bradley, Wyoming Station Epidemiologist, reported that a review of the records revealed that the source herds from which the bulls were purchased are purebred herds and that they have had no history of brucellosis.

The testing of eight herds epidemiologically-associated with the Parker Land and Cattle Company herd, ranging in size from 19 head to 1468 head, have not to date revealed any of them to be infected with brucellosis. These herds had a mean size of about 499 head and a median size of about 400 head (Table 1).

Cattle, elk and bison grazing or being fed in the Greater Yellowstone area are part of the Greater Yellowstone Ecosystem (The Greater Yellowstone Ecosystem Map). The Parker Land and Cattle Company herd, and the eight herds epidemiologically-associated with it, are part of the ecosystem. Brucellosis is known to occur in elk and bison located in the Greater Yellowstone Ecosystem.

Parker Land and Cattle Company
Thomas L. Parker - Owner
c/o John Story - Manager
Dubois, Wyoming

Table 1 and Maps of Wyoming and The Greater Yellowstone Ecosystem

1. Status of herd:

a. Reactor herd

b. Reason for test:

- 1) Slaughter MCI Reactor: Card + (CP), Standard Plate (P)
I200 and Rivanol (R) +200
- 2) Backtagged at the Riverton Livestock Auction, Riverton,
Wyoming, on January 31, 1989.
- 3) Slaughter MCI Reactor - Date: February 2, 1989, at
Packerland, Gering, Nebraska.
 - a) Trace initiated: 2/13/89
 - b) Trace completed: 2/17/89

2. Test data:

First complete herd test

- a. Total tested on 2/22/89, 2/27/89, 2/28/89, &, 3/1/89: 622
- b. Total retested on 3/9/89 after calving: 32
- c. Brucellosis vaccination status of herd:
 - 1) John Story, manager of the herd, advised that he did not
vaccinate until about five years ago.
 - 2) About five years ago, William Powell, D.V.M.,
practiced in the Dubois, Wyoming area. Mr. Story advised
that Dr. Powell used the low dose vaccine.
 - 3) The last two falls, Robbin Waldron, D.V.M., Dubois, Wyoming,
vaccinated the herd for brucellosis.

- b) Twenty-eight or 62.22% were non-vaccinated reactors, and they ranged in age from 5 to 10 years.

7) Balance of test eligible cattle in the herd: $546 - 2 = 544$

b. Second test:

- 1) Number of reactors: 38
- 2) Number of suspects: 13 (3 were official calfhood vaccinates [OCV])
- 3) Thirty-four or 89.47% were non-vaccinated reactors, and they ranged in age from 5 to 10 years.
- 4) Balance: 543, because one died
- 5) Balance: $543 - 38 = 505$

3. Disposition:

a. From first complete herd test.

- 1) Sent to Western Valley Packing Company, Scottsbluff, Nebraska, on 3/6/89 - 43 reactors and 33 culls.

a) Branded and tagged: 45

- (1) Tissues were taken from 15 of the 45 submitted to slaughter. The tissues submitted were:

(a) Uterus -

(b) Spleen

(c) Lymph Nodes

1 Mandibular

2 Retropharyngeal

3 Atlantal

4 Supramammary

- (2) The University of Wyoming, Microbiology Laboratory, obtained 7 brucella isolates from the 15 tissues submitted. They were submitted to NVSL for typing. NVSL reported biovar 1 was isolated from all 7 tissues submitted.

b) S-branded and tagged: 33

- 2) Twenty-eight head of calves were sent to Brent Jones Custom ~~Kill~~ Rigby, Idaho.

b. From second complete herd test.

- 1) Sent to Western Valley Packing Company, Scottsbluff, Nebraska on 4/4/89.
 - a) B-branded and tagged: 38
 - b) S-branded and tagged: None
- 2) Twenty-six head of calves sent to Brent Jones Custom ~~Kill~~ Rigby, Idaho.
- 3) During the week of April 17, the balance of the herd, as follows, was S-branded and sent to the Snake River Cattle Company, American Falls, Idaho, to be placed on feed:
 - a) 450 cows and heifers including herd bulls.
 - b) 362 head of calves (bulls and heifers)
 - c) The bull calves have been castrated. When the heifer calves are weaned, they will be spayed. The weaned calves will remain on feed at the Snake River Cattle Company, or will be returned to the Parker Land and Cattle Company's pastures in the Dubois area for feeding.
 - d) The approximate 55 head that have not had their calves yet, will be sent to the Snake River Cattle Company following calving as cow-calf pairs. These calves also will be either castrated or spayed, and handled in the same manner as the previous calves.
 - e) Following the first complete herd test, 125 head of heifers were spayed and remain on pastures in the Dubois area.

Epidemiologically-Associated Herds

- a. The manager, John Story, advises that the herd is a closed herd, that they purchase bulls only, and all purchases and sales involving the herd have been conducted at the Riverton Livestock Auction. This was supported by a review of John's herd records, the Riverton Livestock Auction records, and Veterinary Services backtagging records.

- b. The sales records reviewed covered 1987, 1988 and through February, 1989. Most sales from the herd through the Riverton Livestock Auction were to slaughter or for feeding. All sales from this herd through this auction have been provided to Dr. Al Bradley, Wyoming Station Epidemiologist.
- c. The purchase records reviewed covered 1987, 1988 and through February, 1989. Only eighteen bulls were determined to have been purchased during this period. The following information obtained concerning purchases was supplied to Dr. Bradley.

- 1) On March 29, 1988
 - a) Three Hankin's Saler bulls from Crowheart, Wyoming.
 - b) Three Safford Saler bulls from Mills, Wyoming.
- 2) On March 31, 1988
 - a) One bull from Paint Rock Angus Ranch, Hyattville, Wyoming.
 - b) One bull from Tom Phipps, Cody, Wyoming.
 - c) One bull from Dunarud Angus, Cody, Wyoming.
- 3) On April 2, 1987, at an Angus sale.
 - a) One bull from Tom Phipps, Cody, Wyoming.
 - b) One bull from Wagler Angus, Cody, Wyoming.
 - c) One bull from Clay Creek Angus, Greybull, Wyoming.
- 4) On April 7, 1987
 - a) One bull from Tom Mercer, Hyattville, Wyoming.
 - b) One Simmental bull from Pete Thompson, Big Piney, Wyoming.
- 5) On December 15, 1987: Four Salers bulls from Wilson Hereford/Salers, Thermopolis, Wyoming.

d. Adjacent/Contact Herds (Associated Herds):

Natural barriers and fences tend to keep cattle from mixing when grazing on spring, summer and fall pasture. When gathered during the fall season, stray cattle are sorted out and held at the Parker Land and Cattle Company home ranch (Mr. Story's premises), until Mr. Butch Burdick, the brand inspector, can identify them so they can be returned to the owner. Only one stray was identified

belonging to Ms. Mary Meade, Jackson Hole, Wyoming, Teton County. This information was provided to Dr. Al Bradley, Wyoming Station Epidemiologist. It was not settled as to whether or not the stray was a steer or a heifer. Ms. Meade, Dr. Bradley advised, stated that she did not have any strays returned to her herd from the Parker Land and Cattle Company. A review of the records for the past ten years revealed no evidence of brucellosis in this herd. This herd is being monitored.

All herds are in the process of calving. For this reason, most herds are being tested in increments at least seven to ten days after calving.

As of May 3, 1989

- 1) Winchester Land and Cattle Company
(neighboring summer allotment)
c/o Jack Winchester
Kinnear, Wyoming

- a) Approximate number of eligible cattle to test: 700
- b) Date, number tested, and status:

	Date	Number	Status
(1)	3/15/89	296	Negative
(2)	3/17/89	112	Negative
(3)	4/05/89	133	Negative
(4)	5/03/89	157	155 N & 2 S (OCV)
	Total:	698	696 N & 2 S (OCV)

- c) A complete herd test.

- 2) Diamond D Ranch (neighboring summer allotment)

- a) Approximate number of eligible cattle to test: 655
- b) Includes:

- (1) Ronald W. Miller
c/o Reg. Phillips - Manager
Dubois, Wyoming
- (2) Retlaw Enterprises, Inc. (2)
c/o Reg. Phillips - Manager
Dubois, Wyoming

c) Date, number tested, and status:

	Date	Number	Status
(1)	3/7/89	247	245 N & 2 S (OCV)
(2)	3/8/89	215	Negative
(3)	4/5/89	134	129 N & 5 S (OCV)
(4)	5/1/89	59	Negative
Grand Total:		655	648 N & 7 S (OCV)

d) A complete herd test.

3) Johnson Cattle Company
 (Neighboring summer allotment)
 c/o Burke Johnson
 Crowheart, Wyoming

a) Approximate number of eligible cattle to test: 200

b) Date, number tested, and status:

	Date	Number	Status
(1)	3/21/89	133	132 N & 1 S (OCV)
(2)	4/20/89	62	57 N & 5 S (OCV)
Total:		195	189 N & 6 S (OCV)

(3) A complete herd test.

4) Timberline Ranch
 (shared summer allotment)
 c/o John Wells
 Dubois, Wyoming

a) Approximate number of eligible cattle to test: 19

b) On 3/10/87, tested 19 head of eligible cattle negative.

c) John Wells ran his cattle on the Warm Springs allotment with Parker Land and Cattle Company.

d) A complete herd test.

- 5) Thunderhead Ranch (C. M. Ranch) - Andy Elisson, Manager,
Dubois, Wyoming (neighboring summer allotment)

a) Approximate number of eligible cattle to test: 1400

b) Includes:

(1) Bear Creek Land and Cattle Company
c/o Edward P. Moriarity

2) Kip T. Spence Ranching Corporation
c/o Kip T. Spence

(3) G. L. Spence and L. P. Spence
c/o Kip T. Spence

c) Date, number tested, and status.

	Date	Number	Status
(1)	3/22/89	306	Negative
(2)	3/23/89	195	Negative
(3)	4/05/89	556	Negative
(4)	4/14/89	76	Negative
(5)	5/02/89	335	Negative
	Total:	1468	Negative

(d) A complete herd test.

- 6) Cross Ranch (Estate of Albert Cross)
(Neighboring summer allotment)
c/o Phillip Cross
Dubois, Wyoming

a. Approximate number of eligible cattle to test: 200

b. On 3/21/89 tested 156 head of eligible cattle.

(1) Tested 155 negative.

(2) One tested suspect. / (OCV)

c. A complete herd test.

- 7) Brad Eastman (also manages Cross Brace Ranch)
Crowheart, Wyoming
Robert L. and Jane G. Mitchell (Cross Brace Ranch)
Brad Eastman, Manager
Dubois, Wyoming

- a) Approximate number of eligible cattle to test:
Eastman and Cross Brace Ranch together - 600
- b) Date, number tested, and status.

	Date	Number	Status
(1)	3/09/89	103	Negative
(2)	3/13/89	181	180 N & 1 S (Not an OCV)
(3)	3/14/89	194	Negative
(4)	4/05/89	17	Negative (Eastman)
(5)	4/05/89	36	Negative (Mitchell)
(6)	4/17/89	5	Negative (Eastman)
(7)	4/17/89	16	Negative (Mitchell)
	Total:	552	551 N & 1 S

- c. Approximate number of eligible cattle to test: 50

- 8) Jim Fike (leased land from Phillip Cross)
Crowheart, Wyoming

- a) Approximate number of eligible cattle to test: 200
- b) Date, number tested, and status.

	Date	Number	Status
(1)	3/16/89	104	103 N & 1 S (OCV)
(2)	3/24/89	37	Negative
(3)	4/17/89	45	44 N & 1 S (OCV)
(4)	4/21/89	16	Negative
	Total:	202	200 N & 2 S (OCV)

- c) Of those tested on 3/24/89, 25 belonged to Jim Fike
and 12 belonged to Ed LeClair.

- d) A complete herd test.
- e. A review of the Log For Market Cattle Test reactors (VS Form 4-100) from January 1983 through March 1989 revealed no MCI Reactors for any of the eight epidemiologically-associated herds, or any other herds, except the Parker Land and Cattle Company herd. Only two Parker Land and Cattle Company MCI reactors were revealed during this time period as follows:
 - (1) An MCI reactor out of Golden Valley Packing Company, Roberts, Idaho, was traced to Parker Land and Cattle Company on November 7, 1988.
 - (a) It was backtagged at the Riverton Livestock Auction on October 27, 1988.
 - (b) It was slaughtered at Golden Valley on November 1, 1988.
 - (c) It was CP, P I100 and R 150.
 - (d) The trace was completed on November 16, 1988 and was reported as traced and no test recommended.
 - (2) The MCI reactor traceback on February 13, 1989 that revealed the Parker Land and Cattle Company to be a reactor herd.

Vaccination Status

The State of Wyoming required mandatory recordkeeping of calfhood vaccination only in the last four or five years. The records were found to be not complete. The following information was obtained from these records and the field test records (bulls excluded).

During testing, official USDA calfhood vaccination ear tattoos were looked for only if the eligible animal field tested positive for brucellosis on the card test.

Vaccination Status
Parker Land and Cattle Company

1. On file from 1987 through the current year.
2. Herd size: 622
3. Out of 591 head, 153 or 25.89% had official calfhood vaccination ear tags.
4. Out of 591 head, 413 or 69.88% had to be retagged.
5. Brucellosis Reactors
 - a. Out of 45 brucellosis reactors found on the first complete herd test, 62.22% were determined to be not officially calfhood vaccinated and ranged from 5 to 10 years of age.
 - b. Out of 38 brucellosis reactors found on the second complete herd test, 89.47% were determined to be not officially calfhood vaccinated and ranged from 5 to 10 years of age.

Vaccination Status
Parker Land and Cattle Company Associated Herds

1. Winchester Land and Cattle Company
 - a. Records on file not complete.
 - b. Estimated herd size: 700
 - c. Out of 524 head tested, 292 or 55.73% had official calfhood vaccination ear tags. 
 - d. Out of 524 head tested, 201 or 38.36% had to be retagged. 

6. Cross Ranch

- a. No records on file.
- b. Herd size: 156
- c. Approximately 5.00% of the 156 head tested had official calfhood vaccination eartags.
- d. Out of 156 head tested, approximately 95.00% had to be retagged. 

7. Cross Brace Ranch (Mitchell & Eastman)

- a. Records on file not complete.
- b. Estimated herd size: 600
- c. Out of 529 head tested, 211 or 39.89% had official calfhood vaccination eartags. 
- d. Out of 529 head tested, 234 or 48.02% had to be retagged. 

8. Jim Fike & LeClair

- a. On file from 1977 through the current year.
- b. Herd size: 202
- c. Out of 184 head tested, 81 or 44.02% had official calfhood vaccination eartags.
- d. Out of 184 head tested, 104 or 56.52% had to be retagged. 

Herd and Wildlife Associations
to
Parker Land And Cattle Company
by
Range Allotment (Wind River R. D.) Map
and
Bureau of Land Management, State and Private Land Map
(Refer to Allotment and BLM Maps)

Herd Associations
Parker Land and Cattle Company

BLM Map

#1
(+ or - 10 days)
Permitted use:
Date on: May 1
Date off: June 30
Permitted use:
Date on: October 1
Date off: November 30
Permitted use:
Date on: April 1
Date off: June 30
Permitted use:
Date on: October 1
Date off: October 31

Allotment Map

Horse Creek - #1
Permitted use:
Date on: June 21
Date off: October 10
Actual use:
Date on: June 17
Date off: September 10
Warm Springs - #2
Permitted use:
Date on: June 16
Date off: October 10
Actual use:
Date on: June 17
Date off: October 10

Johnson Cattle Company

BLM Map

#2
(+ or - 10 days)
Permitted use:
Date on: June 1
Date off: June 30
Permitted use:
Date on: September 1
Date off: October 30

Allotment Map

Fish Lake - #3
Permitted use:
Date on: June 26
Date off: September 30
Actual use:
Date on: July 1
Date off: September 28

Winchester Land and Cattle Company

BLM Map

#3
 (+ or - 10 days)
 Permitted use:
 Date on: June 1
 Date off: October 15

Allotment Map

Parque & Ramshorn
 Parque Creek - #4
 Permitted use:
 Date on: June 26
 Date off: September 30
 Actual use:
 Date on: June 21
 Date off: September 10
 Ramshorn - #5
 Permitted use:
 Date on: June 26
 Date off: September 30
 Actual use:
 Date on: June 21
 Date off: ?

Timberline Ranch

BLM Map

#10 (+ or - 10 days)
 Permitted use:
 Date on: May 1
 Date off: June 30
 Permitted use:
 Date on: August 1
 Date off: October 31

Allotment Map

Warm Springs - #2
 Permitted use:
 Date on: June 16
 Date off: October 10
 Actual use:
 Date on: June 17
 Date off: October 10

Cross Ranch

BLM Map

#4 (+ or - 10 days)
 Permitted use:
 Date on: April 1
 Date off: September 30
 Permitted use:
 Date on: June 1
 Date off: September 30

Allotment Map

Doby Cliff - #6
 Permitted use:
 Date on: September 1
 Date off: September 30
 Actual use:
 Date on: September 1
 Date off: September 30

Cross Brace Ranch

BLM Map

#6 (+ or - 10 days)
 Permitted use:
 Date on: June 10
 Date off: June 30

Allotment Map

Wind River - #10
 Permitted use:
 Date on: June 26
 Date off: September 30
 Actual use:
 Date on: June 14 & 15
 Date off: September 28

Diamond D Ranch

BLM Map

#7 (+ or - 10 days)
 Permitted use:
 Date on: June 1
 Date off: October 31
 Permitted use:
 Date on: April 1
 Date off: November 30
 Permitted use:
 Date on: May 1
 Date off: June 30
 Date on: October 1
 Date off: November 30

Allotment Map

Wiggins Fork - #11
 Permitted use:
 Date on: June 26
 Date off: October 10
 Actual use:
 Date on: June 21
 Date off: September 6, 7, & 8

Jim Fike
 (leases land from Cross Ranch)

BLM Map

Private Land: #12
 Crowheart, Wyoming

Allotment Map

None

Robert A. Williams
(No Cattle)

BLM Map

Allotment Map

#8 (+ or - 10 days)
(Sold: To?)

None

Permitted use:

Date on: May 15

Date off: November 15

Usually used:

Date on: June 1

Date off: November 15

John H. Anderson
(Deceased)
Horses

BLM Map

Allotment Map

#9 (+ or - 10 days)

None

Permitted use:

Date on: November 1

Date off: April 30

Wildlife Associations

Unless otherwise identified, State of Wyoming Game and Fish Department Sources:
K. H. Bowles, Game Warden and E. T. Thorne, Wildlife Research Veterinarian

Buffalo (Bison) - General

There are two bison herds:

1. One is located in Yellowstone National Park. It has three sub-groups. They are:
 - a. The Pelican herd
 - b. The Mary Mountain herd
 - c. The Northern herd
2. The Jackson (Teton) herd.

Brucellosis Status of Bison Herds:

1. The Yellowstone National Park bison (probably the Northern herd) were tested for Brucellosis by Montana during the 1988 - 1989 Montana bison hunt. The data reported by Dr. Don Ferlica, Montana State Veterinarian, as of February 16, 1989, follows:

a. 138 out of 248 sampled were reported positive (56%) ←

Very unusual
for bulls to show
Pos.

b. Seventy-nine percent (79%) of the males and 21% of the females were reported positive. ←

2. The Jackson bison winter with the elk in the National Elk Refuge located in Teton County near Jackson Hole, Wyoming.

a. The Wyoming Game and Fish Department, United States Department of The Interior and the National Park Service (Grand Teton National Park), reported the herd presently numbers approximately 120.

b. The bison are considered to be infected with brucellosis because the elk that they winter with on the refuge are reported to be infected with brucellosis.

1) Approximately 9500 elk were reported to be on feed last winter by the Wyoming State Game and Fish Department.

* 2) Approximately 50% of the mature elk are reported to be infected with brucellosis. It is not uncommon for infected elk to abort on this feedground.

c. Sixteen head of bison were killed by the Wyoming Game and Fish Department and the US Fish and Wild Life Service on March 28, 1989. Sera and tissue specimens were obtained from them to try and determine their brucellosis status.

* 1) Eleven out of the 16 sera were determined to be serologically classified as reactors.

* 2) Brucella has been isolated out of at least 4 of the 16 bison. Typing of the 4 brucella isolates is not complete. One of the 4 aborted.

Bison sightings: All were reported between the last part of July and the first part of August, 1988, except the one that was reported between Yellowstone and Cody, Wyoming. It was reported in February. Source of sightings: USDA Forest Service, State of Wyoming Game and Fish Department, brand inspector, and manager of Parker Land and Cattle Company.

? The source of the bison remains speculative. They could have been from the Teton or Yellowstone National Park herds. The Wyoming Game and Fish speculate that if the bison were from Yellowstone, because of the lake, they would probably have been from the pelican herd.

It has been speculated, that because of the severe drought conditions last summer, the bison sightings have increased.

Refer to maps:

Reports in or near forest allotments and Wind River drainage area.

1. At Togwotee Pass on the Continental Divide:
 - a. a cow, a calf and a bull.
 - b. between the last part of July and the first part of August.
 - c. reported by: ?
2. On the Wind River Allotment #10, Near the Double Bar J Ranch:
 - a. The number reported varied, as follows:
 - 1) three bison, or,
 - 2) two cows and two calves, or,
 - 3) one bull and 2 cows
 - 4) perhaps the same ones seen at the Continental Divide on Togwotee Pass.
 - b. between the last part of July and the first part of August.
 - c. reported by the rancher - he also reported that they walked through his fence in several places.
3. On the Wind River Allotment #10, near the Sheridan Basin:
 - a. one or two bison.
 - b. in the summer, or last part of July, or first part of August.
 - c. reported by the USDA Forest Service.
4. On the Warm Springs Allotment: #2
 - a. one bison bull.

Discussion of potential Parker Land and Cattle Company brucellosis source(s) as of May 3, 1989:

The testing of eight herds epidemiologically-associated with the Parker Land and Cattle Company have not to date revealed any of them to be infected with brucellosis. The time of introduction of brucellosis into the Parker Land and Cattle Company herd appears to have taken place in the spring or summer of 1988.

1. All records reviewed to date support Mr. Story's statement that the Parker Land and Cattle Company is a closed herd. Only bulls have been purchased for the herd in the past few years. Their sources have been identified. The bulls have been identified and, as of this date, have tested negative.
2. The potential exists that the source of brucellosis in the Parker Land and Cattle Company herd could have been bison or elk.
 - a. Although Strain 19 vaccine is not 100%-protective, those animals in this herd that were not vaccinated, or animals that are not vaccinated in any herd, would be at a higher risk for brucellosis than would those that were vaccinated.
 - 1) Out of the 45 brucellosis reactors found on the first complete Parker Land and Cattle Company herd test, 28 or 62.22% were not vaccinated. Their ages ranged from 5 to 10 years. *-what proof do you have of herd being free, doesn't it suspect.*
 - 2) Out of the 38 brucellosis reactors found on the second complete herd test, 34 or 89.47% were not vaccinated. Their ages ranged from 5 to 10 years.
 - b. Dr. Doug Woody, Section VMO for Fremont County, is conducting the testing involved with this outbreak. He proposed the following theory - it would take only one curious cow or heifer, from the Parker Land and Cattle Company herd, to come in contact with a brucellosis-infected elk to become infected. The infected cow or heifer could have, then, spread brucellosis during calving to the herd. This theory could be applied to bison, also.

The Timberline Ranch (John Wells) grazed 19 head of cattle on the Warm Springs allotment with the Parker Land and Cattle Company herd. This herd tested negative and they were determined to not be calfhood vaccinated for brucellosis. This herd is scheduled for a retest.

WYOMING
DUBOIS AREA BRUCELLOSIS HERD STATUS REPORT
AS OF MAY 3, 1989

Herd Name	Date	Estimated Herd Size	Compl Test	Test Seq.	Number Tested	Number Negative	Number Suspect	Susp BCV Stat	Number Reactors
Parker Land and Cattle Co	2/22,27,28, & 3/1/89	622	Y	1	622	577	0	N/A	45
Parker Land and Cattle Co	3/28/89	543	Y	2	543	492	13	3 OCV	38
Diamond D Ranch	3/7,8 & 4/5 & 5/1/89	655	Y	1	655	648	7	7 OCV	0
Cross Brace Ranch (H & C)	3/9,13,14 & 4/5,17/89	600	H	1	552	551	1	0	0
Tiaberline Ranch	3/10/89	19	Y	1	19	19	0	N/A	0
Winchester Land and Cattle	3/15,17 & 4/5 & 5/3/89	700	Y	1	698	696	2	2 OCV	0
Jie Fike (LeClair)	3/16,24 & 4/17,21/89	200	Y	1	202	200	2	2 OCV	0
Thunderhead Ranch	3/22,23 & 4/5,14 & 5/2/89	1400	Y	1	1468	1468	0	N/A	0
Cross Ranch	3/21/89	200	Y	1	156	155	1	1 OCV	0
Johnson Cattle Company	3/21 & 4/20/89	200	Y	1	195	189	6	6 OCV	0
Total Seq 1 :		4596			4567	4503	19		45
Total Seq 2 :		543			543	492	13		38
Grand Total :		5139			5110	4995	32		83

Table 1

OCCURRENCE OF BRUCELLOSIS AT NORTHWEST WYOMING ELK FEEDGROUNDS
(4/20/89)

<u>Herd Unit</u>	<u>Feedground</u>	<u>Status-Basis</u>	<u>Incidence**</u>	<u>Pop. Quota</u>	<u>Vaccin. Started</u>
Jackson	1. Fish Creek	Inf.-tested	6/10	1000	
	2. Patrol Cabin	?		620	
	3. Alkali	?		800	
	4. N.E.R.	Inf.-tested	382/1026	7500	1989
Fall Cr.	5. South Park	Inf.-fetus		1010	
	6. Horse Creek	Inf.-tested	8/24	1250	1989
	7. Camp Creek	Inf.-tested	25/52	900	1989
	8. Dog Creek	Inf.-fetus		800	
Afton	9. Alpine	Inf.-tested	105/212	1000	1985
	10. Forest Park	Inf.-tested	16/98	750	1988
Piney	11. Finnegan	Inf.-tested	1/31	400	
	12. North Piney	?		400	
	13. Bench Corral	?		250	
	14. Jewett	Inf.-fetus		650	
	15. Franz	Inf.-tested	18/46	450	
Hoback	16. Deil Cr.	Inf.-tested	13/20	400	
	17. McNeel	?		600	
Joper	18. Black Butte	Inf.-tested	4/13	500	1989
Green R.	19. Green River	Inf.-fetus		675	1986
	20. Soda Lake	Inf.-tested	12/73	800	
Pinedale	21. Fall Creek	?		700	
	22. Scab Creek	?		250	
	23. Muddy Creek	?		581	

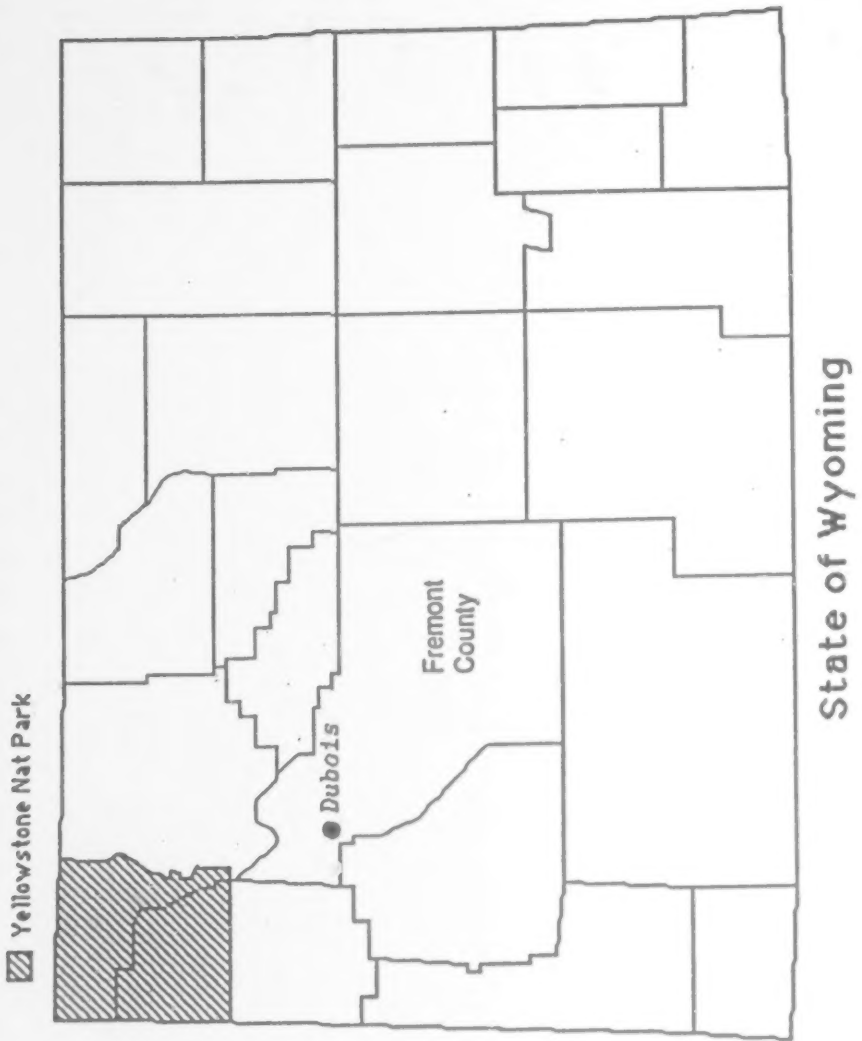
*Number adult females positive/number tested
(Dates were not provided)

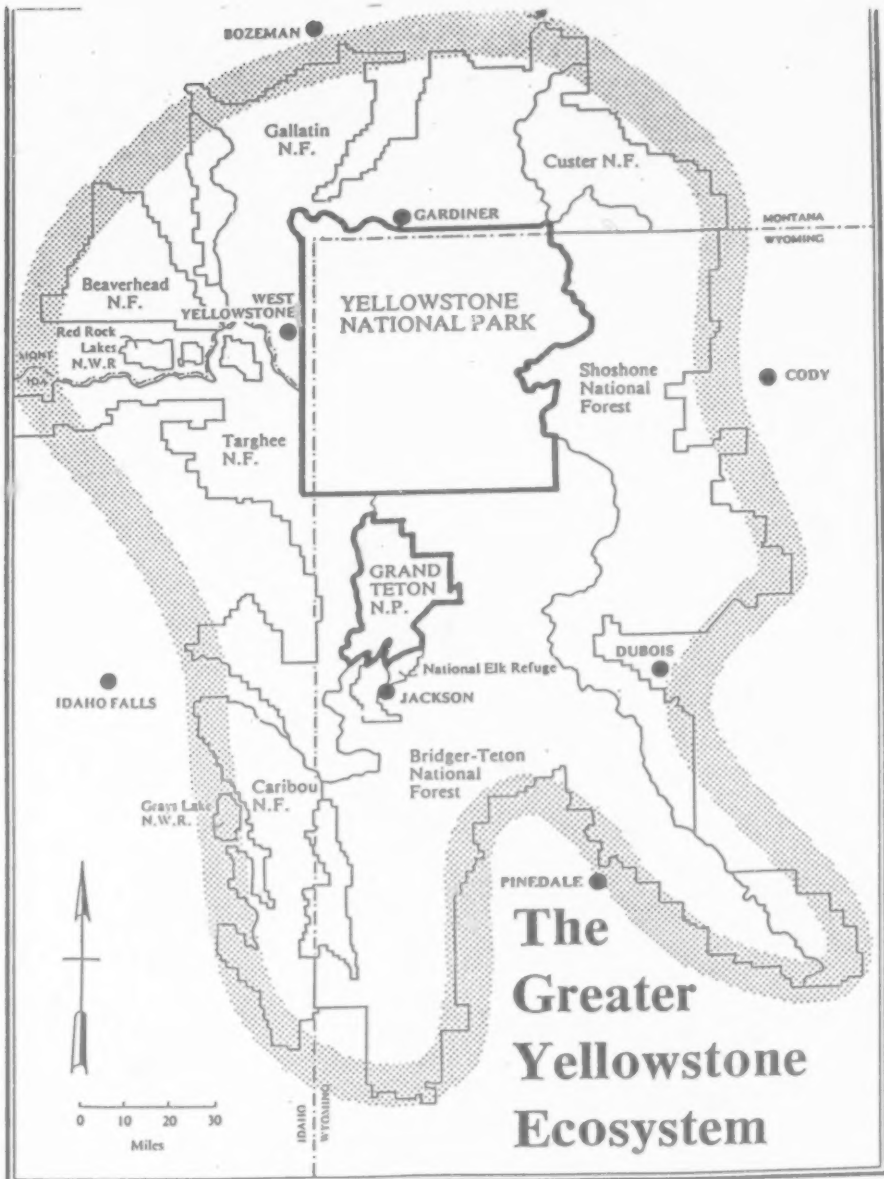
Table 2

Source: James D. Herriges, Jr.
Biologist
Wyoming Game and Fish

WYOMING







+ Brucellosis Reactor Herd
(Biovar 1 Isolated)

DUBOIS, WYOMING AREA
Northwest Wyoming

Herd and Pasture Usage Epidemiologically-Associated
with the
Parker Land & Cattle Company Herd and Pasture Usage

USDA

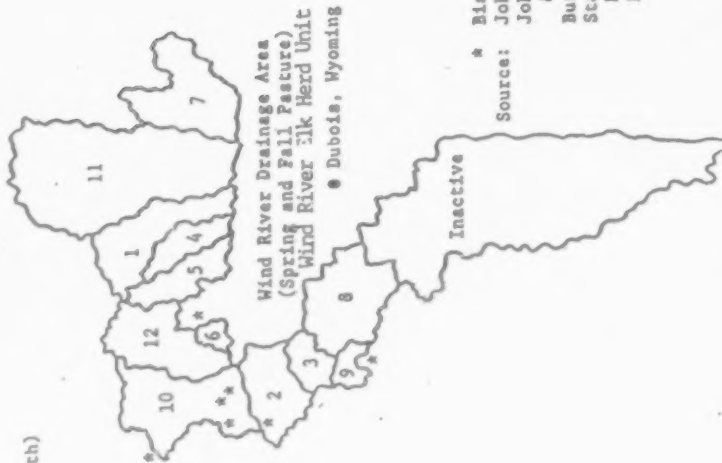
FOREST ALLOTMENTS - SUMMER PASTURE
(Permitted Use on all Allotments after June 10th)

1. Horse Creek
+ Parker Land & Cattle Company
2. Warm Springs
+ Parker Land & Cattle Company
Timberline Ranch
3. Fish Lake
Johnson Cattle Company
4. Parque Creek
Winchester Land & Cattle Company
5. Ramshorn
Winchester Land & Cattle Company
6. Doby Cliff
Cross Ranch

Source:

USDA Forest Service

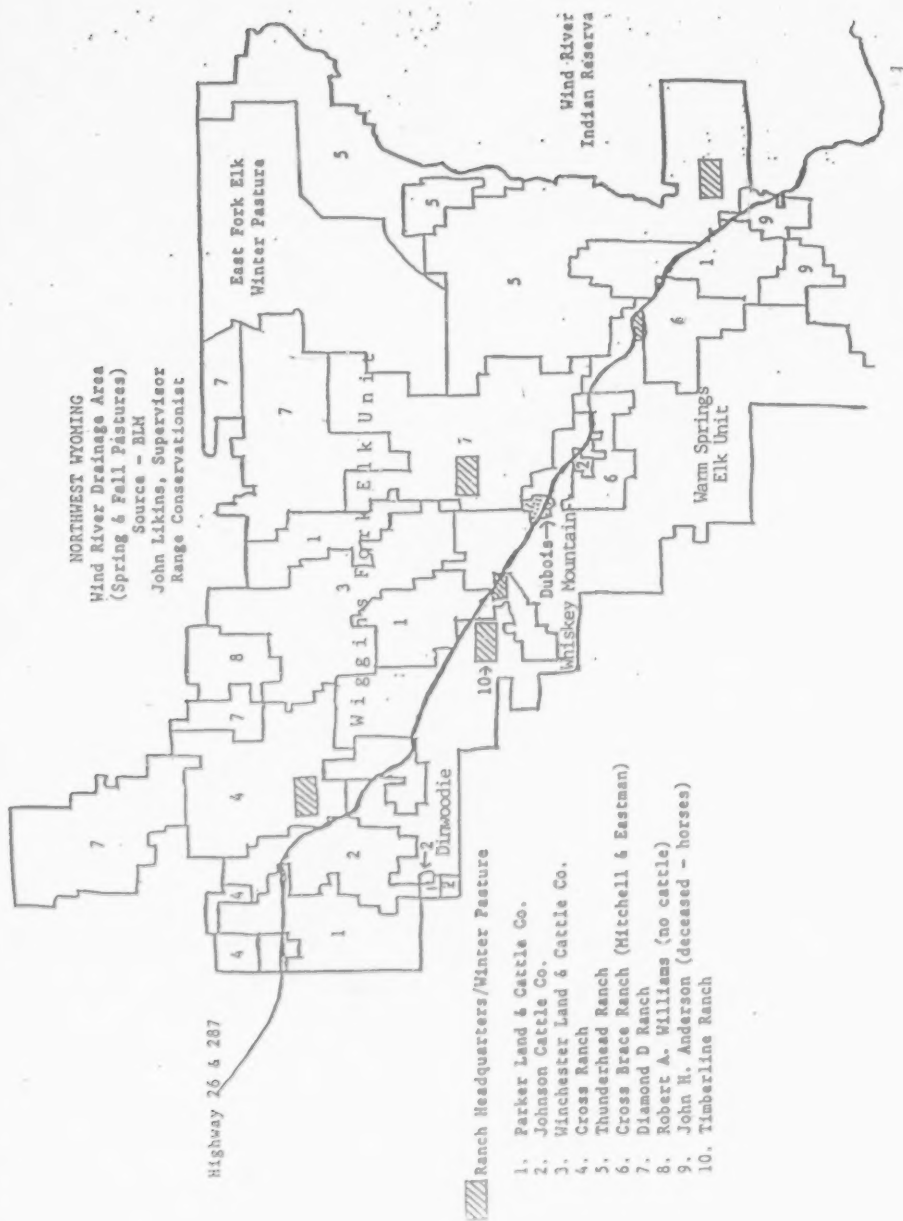
John Lytle, Range Conservationist
Bernice McProwd, Range Technician

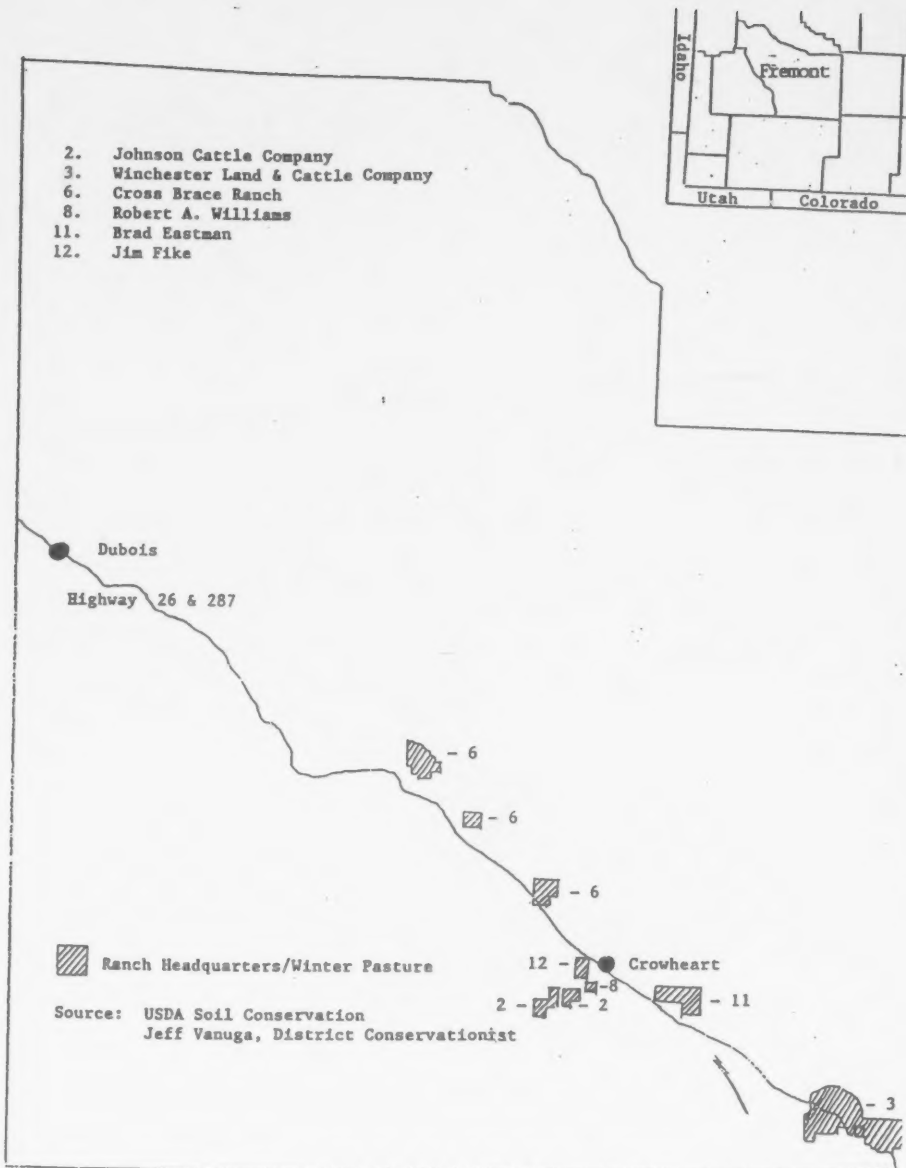


7. Bear Creek
Thunderhead Ranch
8. Union Pass
Thunderhead Ranch
9. Salt Creek
Thunderhead Ranch
10. Wind River
Cross Brace Ranch
(Mitchell & Eastman)
11. Wiggins Fork
Diamond D Ranch
12. Duncuir (inactive)

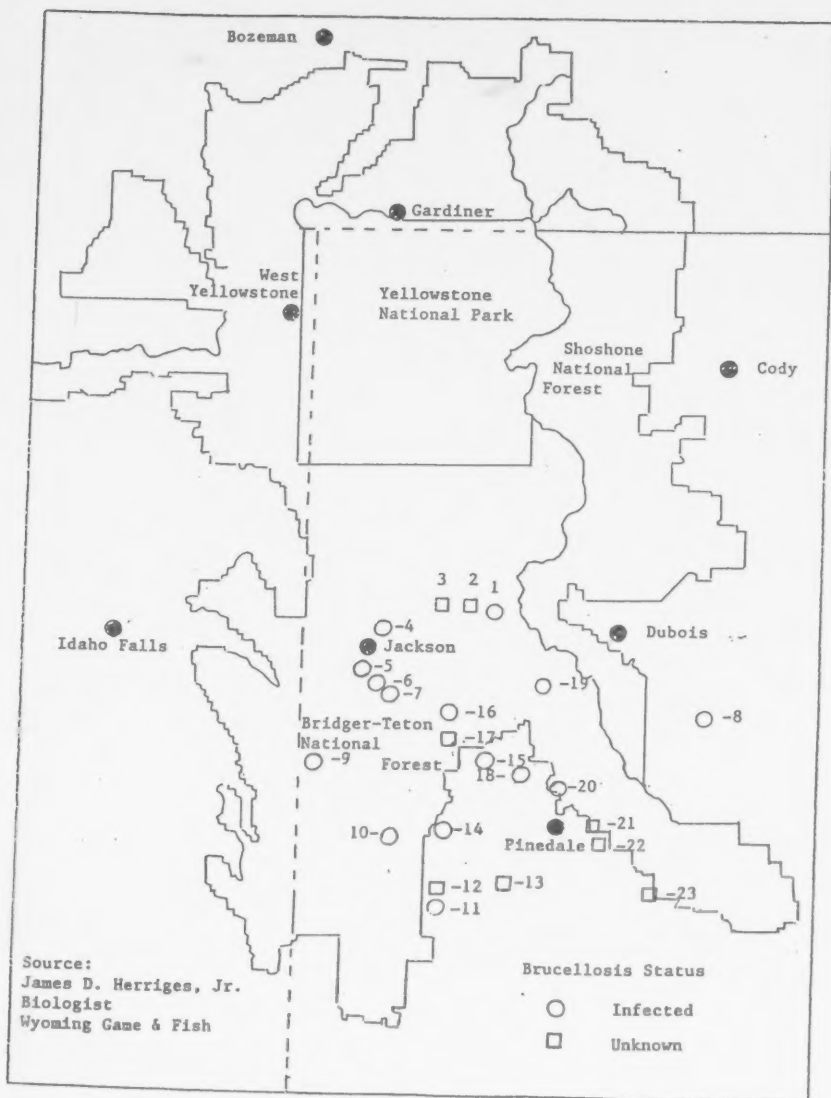
* Bison Sightings

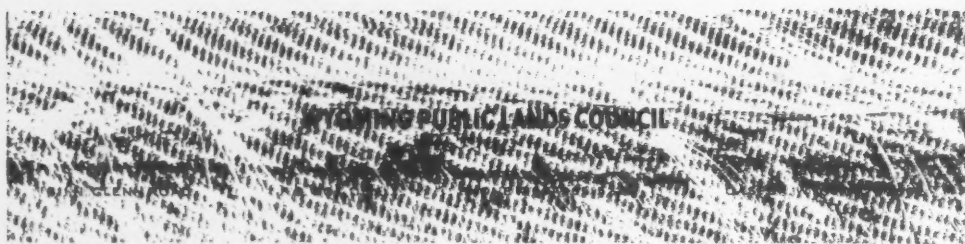
Source: John Lytle, Range Conservationist
John Story, Manager, Parker Land
& Cattle Company
Butch Burdick, Brand Inspector
State of WY Game & Fish Department
K. H. Bowles, Game Warden
E. T. Thorne, Wildlife Research
Veterinarian





(REFER TO TABLE 1)





May 10, 1990

The Honorable Malcolm Wallop
United States Senator
204 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Wallop:

The Wyoming Public Lands Council wish to offer the following in response to S 1767, legislation addressing the problem of wildlife infected with brucellosis that migrate out of Yellowstone Park into surrounding states.

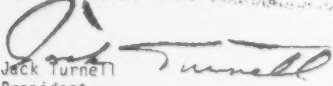
As you well know Wyoming is half public lands and ranchers on the west side of the state depend heavily on the public lands for grazing at some time during the year. Even though ranchers who graze the public lands are vaccinating their herd against brucellosis, there is no vaccine that is 100% effective in every case. As we understand, this particular vaccine performs in the 70 - 75% range of effectiveness.

The reality of the Park Service addressing this issue anytime in the near future seems dismal. We had hoped we could all work together for a common solution, but that appears to be down the road, if at all.

Ranchers are justifiably concerned about selling livestock in the international market in the future if the brucellosis problem continues. When domestic livestock are exposed to brucellosis-infected buffalo and/or elk there is a high possibility of those animals being sold and disbursed across the United States. Such a scenario has grave implications for economic disaster for buyers as well as sellers.

Sincerely,

WYOMING PUBLIC LANDS COUNCIL


Jack Turnell
President



Wyoming Wildlife Federation
P.O. Box 106, Cheyenne, WY 82003
307-637-5433

RECEIVED APR 9 1990

March 23, 1990

The Honorable Malcolm Wallop
237 Russell Senate Office Building
Washington, DC 20510

Dear Senator Wallop:

The Wyoming Wildlife Federation, the Yellowstone Clarks Fork Coalition, the Greater Yellowstone Coalition, the Wyoming Chapter of the Sierra Club and the Northwest Wyoming Resource Council would like to thank you for providing us with copies of your proposed Clarks Fork Wild and Scenic River bill prior to introduction of the legislation. We appreciate the opportunity to provide you with our specific views so that you can consider them at this critical stage of the process.

Your draft proposal to designate the Clarks Fork as a Wild and Scenic River includes water rights language never before included in a Wild and Scenic River bill. Several of the provisions in your bill would weaken the integrity of the Wild and Scenic Rivers Act. We have briefly outlined below our concerns with each of these provisions:

- 1) We do not see the reason for inclusion of an interim flow quantification in the proposal.

There is no need to quantify a flow to protect water development options. Our groups have already agreed that the Wild and Scenic River designation will not impact a downstream impoundment and your bill reflects this compromise. Thus, all the water can be captured below the designated segment. Only upstream dam projects which would harm the designated segment - which we oppose - would be impacted by a reserved flow. Similarly, valid existing rights and "future ordinary and usual domestic and stock watering uses" are already protected in your proposal. So, we see no physical reason for an immediate flow quantification.

The quantification is also unnecessary since the state and federal government is mandated to develop an appropriate flow within three years. This three year study is necessary because the Forest Service does not yet have the data to develop the appropriate flow. To mandate a flow without the necessary data is arbitrary.

The Honorable Malcolm Wallop
Page 2
March 23, 1990

Finally, the 50% quantification falls short of the Forest Service's best guess for an adequate flow. This is particularly disturbing since the agencies may use this 50% figure as Congressional intent and direction as they are developing their quantification. This would be misleading and lend itself to an inadequate flow.

2) Your proposal states that the federal reservation of water will be mutually determined by the state and federal government. We agree that the two entities should work together closely, but the federal government must have the final say over flow reservation. It is inappropriate for the state to have veto power in determining a federal reserved water right on a river that is being designated as part of the National Wild and Scenic Rivers System.

As an alternative, we suggest language which would assure state involvement while retaining the fundamental principles of a federal reserved water right. Such language should direct the federal government to determine the reservation of water in consultation with the state.

3) Several provisions in your proposal creating the reservation of water for the Clarks Fork Wild River do not accurately state the law of federal reserved water rights, as that law has been defined by the courts and by recent acts of Congress. In fact, the choice of words in the Clarks Fork proposal raises new problems and creates confusion on a number of issues that conservationists have worked hard to clarify. As with the issues of quantification and joint determination the benefits of including this language are not readily apparent.

Since we are unsure whether the implications of these provisions are intentional, we have just summarized our objections at this time. We would be happy to explain our position at greater length if that proves useful in the future.

a) The bill uses the term "appurtenant" water with no apparent purpose or context for doing so. Prior legislation has followed established concepts of federal water law by expressly reserving simply the water necessary to fulfill the purposes of the designations. Use of the term "appurtenant" raises needless questions and potential arguments about Congress' actual intent.

The Honorable Malcolm Wallop

Page 3

March 23, 1990

b) The bill also uses the term "unappropriated" for the first time in federal legislation. The use of this term is ill-advised because it needlessly creates an issue over the scope and nature of the right that Congress has just expressly created. Use of the term "unappropriated" could be argued by opponents of a reserved right to signal Congress' intent to prohibit the Forest Service from obtaining a junior water right on the Clarks Fork.

c) The proposal states that "Designation of the segment as a wild river . . . shall not interfere with the exercise of, and State administration over, existing water rights." This language goes unnecessarily beyond customary savings clauses. The reserved rights will, by definition, have some effect on existing water rights, if, for example, an existing consumptive right holder downstream from the wild segment attempted to move its point of diversion upstream of the segment. The junior reserved right could block such a movement. This is the purpose of a reserved right: to protect the designated segment.

d) The bill also uses the phrase "expressly reserves from . . . water in the river segment . . ." Read literally, this phrasing means that Congress is only creating a right to waters which arise in the segment. Under such a narrow, literal reading, the Forest Service would have no call on waters upstream in the channel.

e) The language of the bill effectively narrows the purposes for which water is reserved in the Clarks Fork from the broad statement in the Act to merely the "scenic, recreational and historic values." This may result in a lesser quantity of water being reserved than if your proposal tracked the language of the Wild and Scenic Rivers Act.

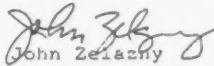
f) The bill also deviates from the Wild and Scenic Rivers Act by providing that "the [reserved] water shall be administered by the State of Wyoming." The effect of the language is not clear, but it definitely retreats from the provisions of the Wild and Scenic Rivers Act.

In summary, we welcome your efforts at protecting the Clarks Fork but feel that some of the language in your proposal weakens the Wild and Scenic Rivers Act and does not give the river the protection it deserves. We would much prefer to give your proposal our support and we hope you will reconsider the language in your proposal in light of our concerns.

The Honorable Malcolm Wallop
Page 4
March 23, 1990

We believe the goals of protecting the Clarks Fork, protecting Wyoming's right to develop its water and protecting the integrity of the Wild and Scenic Rivers Act can be mutually achieved. The protection of the Clarks Fork would be a wonderful gift to Wyoming in its Centennial year and we stand ready to work with you to make it happen.

Sincerely,



John Zeiszy
Conservation Programs Director
for
Wyoming Wildlife Federation
Yellowstone Clarks Fork Coalition
Greater Yellowstone Coalition
Wyoming Chapter of the Sierra
Club
Northwest Wyoming Resource
Council

c: Governor Mike Sullivan
Senator Al Simpson
Rep. Craig Thomas

JAKE KITTLE

P.O. BOX 309

WILSON, WYOMING 83014

(307) 733-7667

May 30, 1990

Senator Dale Bumpers, Chairman
Senate Public Lands National Parks and Forests Subcommittee
308 Dirksen Building
Washington, D.C. 20510

Dear Senator Bumpers:

While I realize that your Committee held hearings on the Wild and Scenic River status for the Clark's Fork of the Yellowstone on May 10th, I do ask that my remarks contained in this letter be added to those on record.

The Bill, as written by Senator Malcolm Wallop, is unacceptable in that:

It would weaken Wild and Scenic legislation which is not acceptable to any clear-thinking citizen of this state or nation, and

It would offer nothing to protect an instream flow adequate to maintain the river's character, which is one of the wildest in the United States. Only 50% of the flow within the designated segment is protected as the bill is written.

It calls for joint federal and state authority giving the state veto power in flow determination.

In as much as there seems to be no inclination on the part of the Wyoming delegation to make the changes necessary to produce a decent Wild and Scenic Bill, I think we are forced to wait until our delegation is enlightened (it would not take much) or replaced.

Sincerely,

Jake Kittle

Jake Kittle

Copy: Congressman Bruce Vento, Chairman
House National Parks and Public Lands Subcommittee

STATEMENT OF MRS. DIANE FLAHERTY
BEFORE THE
PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Thursday, May 10, 1990

Good afternoon. My name is Diane Flaherty. My sister, Patricia Harris, and I own the only private property within the Clark's Fork Wild and Scenic River designation. We are here to support the clear statement of the bill that condemnation cannot be used to acquire an interest in our property. We thank you for the opportunity to be heard.

Our ranch consists of 136 acres straddling the river near the Crandall Ranger Station at the upstream-end of the designated area. It is remote and inaccessible by modern standards. Until very recently, the closest paved road was twenty miles away. The "driveway" is several miles of bumpy trail which abruptly descends fifteen hundred feet into the canyon on a narrow switchback road. The switchback ends at the river and the main ranch sits just on the other side.

The ranch has always been called the Wright Place because it was homesteaded at the turn of the century by Fred Wright and his family. It once held the distinction of being the smallest school in the world, when the state was required to board a teacher there to tutor Fred Wright's only child.

The Wright Place is unique and breathtakingly beautiful. It takes up the entire canyon floor along a 3/4 mile stretch of the Clark's Fork. The canyon opens just a few miles upstream where the water cascades down out of the mountains and then slows as the canyon widens. The river runs

through our property and down several miles where the canyon walls close and the flow again quickens.

Despite its beauty, the Wright Place is not a showcase; it is a working cattle ranch. We grow hay, raise horses and run several hundred head of cattle with the benefit of grazing permits in the Beartooth Range. Cows and calves are driven up into the mountains in the Spring and down to lower ranches in the Fall. The property contains a lodge, a caretaker's residence, bunkhouses, barns and outbuildings.

Our father, John Bugas, was a Wyoming native who ran cattle in the Sunlight/Crandall area for over forty years. He purchased the Wright Place because of its rugged beauty. My father was dedicated to the belief that the Wright Place and the surrounding area should remain as wild and isolated as when Fred Wright owned it.

He also recognized that preservation would be a constant struggle, that there would be unrelenting pressure for access to the canyon from various quarters. He held steadfast to the belief, however, that the most effective way to protect the area was the most obvious: leave it alone. He felt that the rugged terrain was at once the canyon's greatest appeal and its own natural defense against excessive intrusion by man. Accordingly, he would never permit the access roads to be

improved or for a bridge to be built. For much of his life, the only way to get to the ranch was by a hand trolley strung across the river.

We believe that the Clark's Fork is in a condition to be considered for wild and scenic designation today because of my father's protective approach to this canyon. He felt that responsible private ownership offered the best protection for this unique spot and that any surrender of control to the government would lead to its eventual deterioration. Accordingly, our father fought earlier proposals to designate this area as wild and scenic out of genuine concern that it would be the first step in a process which would ultimately transform the Clark's Fork into another Yellowstone.

Because we share our father's concerns about official recognition of this area, our first inclination, upon hearing of the latest proposal, was to oppose it as he had the earlier proposals. Over the last several months, however, we have been persuaded that the benefits of the designation may outweigh the risks. Slap-dash development of the upper Clark's Fork is an eyesore and a disgrace. The ever more powerful recreational and sportsman's lobbies pose a threat to the few truly wild areas remaining in the state. Recognizing that times have changed and that the natural buffer against overuse may no longer be enough, my sister and I have decided not to oppose the wild and scenic designation.

Our decision is made not without reservations, but in reliance on assurances from the governor's office and the bill's congressional sponsors that the designation will preserve the wilderness without intruding on our rights as private landowners. We have been told that language in the bill prohibiting the acquisition of land or any interest in land without the owners' consent was included for our benefit and acts as an absolute bar to condemnation of our property. We have been further assured that this language will prohibit the taking of an easement through the property for access to the river or for any other purpose. There is no route through the ranch which would avoid a direct view by the public into the buildings, nor is it possible to cross the property without coming into contact with our equipment, work buildings and livestock. Any such intrusion would destroy the essence of our ownership of the Wright Place.

But it is not just for personal reasons that we would refuse to grant an easement. Our property, because of its proximity to the road, offers the easiest access to the river for visitors arriving by car. We believe that an access easement through our property would invite overuse and irreparably change the character of the canyon. The Clark's Fork Canyon retains much of its untamed nature because the topography prohibits easy access. Although there are four

well-maintained trails into this segment of the river, the precipitous canyon walls keep out all but the most intrepid visitors.

This is as it should be. The land adjacent to the river is narrow and in some places nonexistent. It simply cannot support a great increase in visitors without losing its wild and scenic character. For this reason we not only refuse access though our property, but would like to express our reservations with the Forest Service's "preferred alternative" development of the Clark's Fork which calls for adding or improving trails and additional overlooks.

We believe that God made wonders like the Clark's Fork Canyon a little hard to reach so that those willing to work to get there would have something truly special to appreciate. Throughout the years of our family's ownership of the Wright Place, we have worked with the Forest Service to protect this special place. We look forward to a continuation of this joint stewardship under the wild and scenic designation.

STATEMENT OF MARY E. MC DONALD
WASHINGTON REPRESENTATIVE FOR THE CALIFORNIA RESOURCES AGENCY
MAY 10, 1990 PUBLIC HEARING ON HR 2809
BEFORE THE PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE
OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION IS IN SUPPORT OF H.R. 2809, WHICH WOULD TRANSFER TO THE STATE OF CALIFORNIA THE SMALLEST NATIONAL FOREST IN THE UNITED STATES, THE CALAVERAS BIG TREE NATIONAL FOREST. THIS FOREST WOULD BE TRANSFERRED TO THE STATE OF CALIFORNIA FOR INCLUSION WITHIN THE CALAVERAS BIG TREES STATE PARK WHICH IS LOCATED IMMEDIATELY ADJACENT TO THE FOREST. IT IS IMPORTANT TO NOTE, THE TRANSFER WOULD ONLY TAKE PLACE AFTER THE STATE OF CALIFORNIA AND THE UNITED STATES FOREST SERVICE (U.S.F.S.) COMPLY WITH THE PROVISIONS OF THE MEASURE PERTAINING APPROPRIATE MONETARY AND/OR LAND COMPENSATION PROVISIONS.

THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION CURRENTLY MANAGES NEARLY 6,000 ACRES OF LANDS IN CALAVERAS CALIFORNIA CALLED THE CALAVERAS BIG TREES STATE PARK. WITH THE SOUTH GROVE OF THE PARK LOCATED ADJACENT TO CALAVERAS BIG TREES NATIONAL FOREST. THIS FOREST POSSESSES WHAT IS CONSIDERED BY MANY AS THE MOST OUTSTANDING UNTOUCHED STAND OF SUGARPINE IN EXISTENCE, ALONG WITH SEVERAL SIERRA REDWOOD SPECIMENS. THE GROVE IS A PRISTINE EXAMPLE OF AN ANCIENT AND ONCE WIDESPREAD FOREST COMMUNITY THAT HAS NOW DISAPPEARED ALMOST COMPLETELY FROM THE FACE OF THE EARTH. RECOGNIZING THESE OUTSTANDING AND RARE QUALITIES, IN NOVEMBER 1984 THE STATE PARK COMMISSION OFFICIALLY CLASSIFIED THE GROVE AS A "NATURAL PRESERVE" THEREBY GIVING IT THE HIGHEST LEVEL OF PROTECTION AFFORDED TO LAND WITHIN THE CALIFORNIA STATE PARK SYSTEM.

THIS MEASURE PROPOSES TO TRANSFER THE 379 ACRES AND ALL MANAGEMENT RESPONSIBILITIES TO THE STATE OF CALIFORNIA FOR INCLUSION WITHIN THE CALAVERAS BIG TREES STATE PARK. TO DATE, THE FOREST HAS BEEN MANAGED WITH NO MANIPULATION WITHIN THE FOREST TO ANY TREE SPECIES. AS A RESULT, WHILE THE SUGARPINE ARE STILL THE DOMINANT MEMBER OF THIS FOREST'S PLANT COMMUNITY, THE LACK OF NATURAL CONTROLLING FACTORS HAS RESULTED IN THE DEVELOPMENT OF AN EXTENSIVE AND DELETERIOUS WHITE FIR UNDERSTORY. IF LEFT UNCHECKED, THE SUGARPINE WILL EVENTUALLY BE REPLACED WITH FIR SPECIES. THROUGH ITS PRESCRIBED FIRE-MANAGEMENT PROGRAM, THE DEPARTMENT WILL PROVIDE THE ACTIVE MANAGEMENT THAT THIS FOREST NEEDS TO PREVENT THE DECLINE OF ALL NON-FIR SPECIES. IN ADDITION, THIS FOREST DOES CONTAIN SEVERAL SPECIMENS OF SIERRA REDWOOD THAT ARE PROPERLY CONSIDERED A PART OF

THE STATE PARK'S SOUTH GROVE. FINALLY, BOTH THE U.S.F.S. AND STATE OF CALIFORNIA RECOGNIZE THAT THIS FOREST IS AN UNTAPPED RECREATIONAL RESOURCE. IF THE DEPARTMENT BECAME THE STEWARD FOR THIS LAND IT COULD PROVIDE RECREATIONAL OPPORTUNITIES AS NATURAL EXTENSIONS OF EXISTING TRAILS.

THE STATE OF CALIFORNIA IS ASKING THAT THE COMMITTEE AMEND THIS MEASURE TO ADDRESS THE FOLLOWING POINTS:

1. REDUCE FROM TWO YEARS TO ONE YEAR THE MAXIMUM TIME PERMITTED FOR THE TRANSFER TO TAKE PLACE SO THAT THE BENEFITS TO BOTH STATE AND U.S.F.S. CAN BE EXPEDITED.
2. INCLUDE AS OTHER CONSIDERATION OF APPROXIMATELY EQUAL VALUE ANY CASH PAYMENT OR MONETARY GRANTS AWARDED TO THE SECRETARY AFTER JUNE 1, 1990 FOR ACQUISITION OF LANDS IN CALIFORNIA FOR THE NATIONAL FOREST SYSTEM. THE DEPARTMENT RECOMMENDS THIS AMENDMENT, WHICH WOULD ASSIST IN FUNDING THIS MUTUALLY BENEFICIAL TRANSFER OF LANDS, TO RECOGNIZE THE SIZEABLE PAST AND CONTINUING STATE CONTRIBUTION TO THE U.S.F.S.'S ACQUISITION NEEDS.

ON BEHALF OF THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, WE LOOK FORWARD TO WORKING WITH THE U.S.F.S. TO THOUGHTFULLY IMPLEMENT THE PROVISIONS OF THIS MEASURE.